

State of Wisconsin



2009 Senate Bill 288

Date of enactment: **December 7, 2009**

Date of publication*: **December 21, 2009**

2009 WISCONSIN ACT 94

AN ACT *to repeal* 48.21 (5) (d) 2., 48.21 (5) (d) 3., 48.32 (1) (c) 2., 48.32 (1) (c) 3., 48.355 (2d) (c) 2., 48.355 (2d) (c) 3., 48.357 (2v) (c) 2., 48.357 (2v) (c) 3., 48.365 (2m) (ad) 2., 48.685 (1) (e), 48.983 (1) (d), 48.983 (1) (e), 938.02 (18g), 938.21 (5) (d) 2., 938.21 (5) (d) 3., 938.32 (1) (d) 2., 938.32 (1) (d) 3., 938.355 (2d) (c) 2., 938.355 (2d) (c) 3., 938.357 (2v) (c) 2., 938.357 (2v) (c) 3., 938.365 (2m) (ad) 2. and 938.538 (6m) (a) 1.; *to renumber* 938.02 (9m); *to renumber and amend* 48.20 (8), 48.21 (5) (d) 1., 48.273 (1), 48.32 (1) (c) 1., 48.355 (2d) (c) 1., 48.357 (1) (am) 2., 48.357 (2m) (c), 48.357 (2v) (c) 1., 48.365 (2m) (ad) 1., 48.424 (1), 48.981 (1) (cs), 938.21 (5) (d) 1., 938.273 (1) (c), 938.32 (1) (d) 1., 938.355 (2d) (c) 1., 938.357 (2m) (c), 938.357 (2v) (c) 1. and 938.365 (2m) (ad) 1.; *to amend* 48.02 (2), 48.02 (13), 48.02 (15), 48.028 (2) (e) and (f), 48.028 (7) (b) 2. and 3., 48.13 (intro.), 48.14 (intro.), 48.15, 48.19 (2), 48.195 (2) (d) 7., 48.20 (2) (ag), 48.20 (2) (b), 48.20 (3), 48.20 (7) (c) (intro.), 48.20 (7) (c) 1., 48.20 (7) (d), 48.21 (3) (am), 48.21 (3) (b), 48.21 (3) (d), 48.21 (3) (e), 48.23 (2), 48.23 (3), 48.23 (4), 48.235 (4) (a) 7., 48.235 (4m) (a) 7., 48.255 (1) (cm), 48.255 (1m) (d), 48.255 (2), 48.255 (4), 48.27 (3) (a) 1., 48.27 (3) (d), 48.27 (4) (a) 2., 48.299 (6) (d), 48.30 (1), 48.30 (2), 48.30 (6) (a), 48.30 (7), 48.305, 48.31 (1), 48.31 (7) (a), 48.315 (1m), 48.335 (3j) (intro.), 48.345 (3) (intro.), 48.355 (2) (d), 48.357 (1) (am) 1., 48.357 (1) (am) 3., 48.357 (1) (c) 2., 48.357 (1) (c) 3., 48.357 (2m) (a), 48.357 (2m) (b), 48.363 (1) (a), 48.363 (1) (b), 48.365 (1m), 48.365 (2), 48.365 (2m) (a) 1., 48.365 (2m) (a) 3., 48.365 (2m) (ag), 48.38 (4m) (b) and (c), 48.38 (5) (b), 48.38 (5) (d), 48.38 (5) (e), 48.38 (5m) (b), 48.38 (5m) (d), 48.38 (5m) (e), 48.415 (intro.), 48.42 (1) (d), 48.42 (2) (c), 48.42 (4) (a), 48.422 (1), 48.422 (2), 48.422 (6) (a), 48.422 (8), 48.424 (2) (intro.), 48.424 (2) (a), 48.424 (3), 48.424 (4) (intro.), 48.424 (4) (a), 48.424 (4) (b), 48.424 (5), 48.425 (1) (intro.), 48.428 (2) (a), 48.428 (2) (b), 48.43 (5) (c), 48.43 (5m), 48.43 (6) (a), 48.43 (6) (c), 48.46 (2), 48.48 (3m) (intro.), 48.48 (8m), 48.485, 48.487 (2), 48.487 (3) (b), 48.487 (4m) (b) (intro.), 48.487 (4m) (c), 48.487 (4m) (d), 48.563 (3), 48.565 (intro.), 48.57 (3p) (h) 2., 48.57 (3p) (h) 3. (intro.), 48.57 (3p) (h) 4., 48.57 (3t), 48.63 (1), 48.63 (3) (b) 1., 48.63 (4), 48.63 (5) (b), 48.63 (5) (c), 48.63 (5) (d) 3., 48.63 (5) (d) 4., 48.63 (5) (d) 5., 48.63 (5) (d) 6., 48.645 (1) (a), 48.645 (2) (a) 1., 48.645 (2) (a) 3., 48.645 (2) (a) 4., 48.645 (2) (b), 48.685 (5) (a), 48.685 (5d) (a) (intro.), 48.685 (5d) (a) 2., 48.685 (5d) (a) 3., 48.685 (5d) (a) 3m., 48.685 (5d) (a) 4., 48.685 (5d) (b), 48.825 (1) (b), 48.83 (1), 48.831 (2), 48.837 (1r) (a), 48.837 (4) (c), 48.837 (4) (d), 48.837 (6) (c), 48.85 (1), 48.88 (2) (a) (intro.), 48.88 (2) (b), 48.89 (1), 48.91 (3), 48.93 (1d), 48.977 (4) (a) 1., 48.977 (4) (b) 6., 48.977 (4) (c) 2., 48.978 (2) (b) 11., 48.981 (1) (ct), 48.981 (1) (i), 48.981 (3) (bm) (intro.), 48.981 (3) (bm) 1., 48.981 (3) (bm) 2., 48.981 (7) (a) 10m., 48.981 (7) (a) 10r., 48.981 (7) (a) 11m., 938.02 (10m), 938.02 (12m), 938.02 (13), 938.02 (15), 938.02 (15c), 938.028 (2) (c), 938.028 (6) (a) 2. and 3., 938.13 (intro.), 938.15, 938.185 (4) (title), 938.185 (4) (intro.), 938.185 (4) (a), 938.185 (4) (b), 938.19 (2), 938.20 (2) (ag), 938.20 (2) (b), 938.20 (3), 938.20 (7) (c) 1., 938.20 (7) (d), 938.20 (8) (a), 938.21 (2) (title), 938.21 (2) (ag), 938.21 (3) (ag), 938.21 (3) (am), 938.21 (3) (b), 938.21 (3) (d), 938.21 (3) (e), 938.23 (3), 938.23 (4), 938.235 (4) (a) 7., 938.24 (2r) (title), 938.24 (2r) (a) (intro.), 938.24 (2r) (a) 1., 938.24 (2r) (a) 2., 938.24 (2r) (b), 938.243 (1) (e), 938.25 (2g) (title), 938.255 (1) (cm),

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

938.255 (1) (cr) 1. a., 938.255 (1) (cr) 1. b., 938.255 (1) (cr) 1. c., 938.255 (1) (cr) 2., 938.255 (2), 938.255 (4), 938.27 (3) (a) 1., 938.27 (4) (b), 938.273 (1) (a), 938.273 (1) (b), 938.299 (6) (d), 938.299 (9) (title), 938.299 (9) (a), 938.30 (1), 938.30 (2), 938.30 (6) (a), 938.30 (7), 938.305, 938.31 (7) (a), 938.335 (3j) (intro.), 938.355 (2) (d), 938.355 (6) (an) 1., 938.355 (6) (b), 938.355 (6m) (am) 1., 938.355 (6m) (c), 938.357 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (1) (am) 3., 938.357 (1) (c) 2., 938.357 (1) (c) 3., 938.357 (2m) (a), 938.357 (2m) (b), 938.363 (1) (a), 938.363 (1) (b), 938.365 (1m), 938.365 (2), 938.365 (2m) (a) 1., 938.365 (2m) (a) 3., 938.365 (2m) (ag), 938.38 (3) (intro.), 938.38 (4m) (b) and (c), 938.38 (5) (b), 938.38 (5) (d), 938.38 (5) (e), 938.38 (5m) (b), 938.38 (5m) (d), 938.38 (5m) (e) and 938.538 (6m) (a) 4.; **to repeal and recreate** 48.01 (2), 48.028, 48.27 (3) (a) 1., 48.357 (1) (am) 1., 48.357 (2m) (b), 48.363 (1) (b), 48.365 (2), 48.365 (2m) (ag), 48.38 (5) (b), 48.38 (5) (e), 48.38 (5m) (b), 48.38 (5m) (e), 48.428 (2) (a), 48.428 (2) (b), 48.43 (5m), 48.63 (1), 48.63 (4), 48.645 (1) (a), 48.645 (2) (a) 1., 48.645 (2) (a) 3., 48.645 (2) (a) 4., 48.645 (2) (b), 938.028, 938.27 (3) (a) 1., 938.357 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (2m) (b), 938.363 (1) (b), 938.365 (2), 938.365 (2m) (ag), 938.38 (5) (b), 938.38 (5) (e), 938.38 (5m) (b) and 938.38 (5m) (e); and **to create** 48.02 (8d), 48.02 (8m), 48.02 (8p), 48.02 (8r), 48.02 (18j), 48.14 (12), 48.207 (1g), 48.23 (2g), 48.255 (1) (g), 48.255 (1m) (g), 48.273 (1) (ag), 48.273 (1) (c) 2., 48.299 (9), 48.31 (5), 48.315 (1) (j), 48.32 (1) (d), 48.33 (4) (d), 48.335 (3j), 48.345 (3m), 48.355 (2) (b) 6v., 48.355 (2d) (d), 48.357 (1) (am) 1g., 48.357 (1) (c) 1m., 48.357 (1) (c) 2m., 48.357 (2m) (am), 48.357 (2m) (bm), 48.357 (2v) (a) 4., 48.365 (2g) (b) 4., 48.38 (4) (i), 48.38 (4m), 48.38 (5) (c) 8., 48.41 (2) (e), 48.417 (2) (cm), 48.42 (1) (e), 48.42 (2g) (ag), 48.424 (1) (b), 48.425 (1) (cm), 48.427 (5), 48.427 (6) (b) 4., 48.43 (5) (bm), 48.831 (1r), 48.831 (4) (cm), 48.833 (3), 48.837 (2) (e), 48.88 (2) (ag), 48.93 (1v), 48.977 (4) (c) 1. j., 48.977 (4) (c) 2m., 48.977 (4) (g) 4., 806.245 (1m), 938.01 (3), 938.02 (8d), 938.02 (8g), 938.02 (8m), 938.02 (8p), 938.02 (8r), 938.02 (18j), 938.207 (1g), 938.23 (2g), 938.255 (1) (g), 938.27 (3) (d), 938.273 (1) (ag), 938.273 (1) (c) 2., 938.299 (10), 938.31 (5), 938.315 (1) (a) 11., 938.32 (1) (e), 938.33 (4) (d), 938.335 (3j), 938.345 (1m), 938.355 (2) (b) 6v., 938.355 (2d) (d), 938.355 (6) (bm), 938.355 (6) (cr), 938.355 (6m) (bm), 938.355 (6m) (cr), 938.357 (1) (am) 1g., 938.357 (1) (c) 1m., 938.357 (1) (c) 2m., 938.357 (2m) (am), 938.357 (2m) (bm), 938.357 (2v) (a) 4., 938.365 (2g) (b) 4., 938.38 (4) (i), 938.38 (4m) and 938.38 (5) (c) 8. of the statutes; **relating to:** Indian child welfare.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.01 (2) of the statutes is repealed and recreated to read:

48.01 (2) In Indian child custody proceedings, the best interests of the Indian child shall be determined in accordance with the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), and the policy specified in this subsection. It is the policy of this state for courts and agencies responsible for child welfare to do all of the following:

(a) Cooperate fully with Indian tribes in order to ensure that the federal Indian Child Welfare Act is enforced in this state.

(b) Protect the best interests of Indian children and promote the stability and security of Indian tribes and families by doing all of the following:

1. Establishing minimum standards for the removal of Indian children from their families and placing those children in out-of-home care placements, preadoptive placements, or adoptive placements that will reflect the unique value of Indian culture.

2. Using practices, in accordance with the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), this section, and other applicable law, that are designed to prevent the voluntary or involuntary out-of-home care placement of Indian children and, when an out-of-home

care placement, adoptive placement, or preadoptive placement is necessary, placing an Indian child in a placement that reflects the unique values of the Indian child's tribal culture and that is best able to assist the Indian child in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian child's tribe and tribal community.

SECTION 2. 48.02 (2) of the statutes is amended to read:

48.02 (2) "Child", when used without further qualification, means a person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "child" does not include a person who has attained 17 years of age.

SECTION 3. 48.02 (8d) of the statutes is created to read:

48.02 (8d) "Indian" means any person who is a member of an Indian tribe or who is an Alaska native and a member of a regional corporation, as defined in [43 USC 1606](#).

SECTION 4. 48.02 (8m) of the statutes is created to read:

48.02 (8m) "Indian child's tribe" means one of the following:

(a) The Indian tribe in which an Indian child is a member or eligible for membership.

(b) In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.

SECTION 5. 48.02 (8p) of the statutes is created to read:

48.02 (8p) “Indian custodian” means an Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child.

SECTION 6. 48.02 (8r) of the statutes is created to read:

48.02 (8r) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the services provided to Indians by the U.S. secretary of the interior because of Indian status, including any Alaska native village, as defined in [43 USC 1602](#) (c).

SECTION 7. 48.02 (13) of the statutes is amended to read:

48.02 (13) “Parent” means either a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, “parent” includes a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. “Parent” does not include any person whose parental rights have been terminated. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), “parent” means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian child, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

SECTION 8. 48.02 (15) of the statutes is amended to read:

48.02 (15) “Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepparent, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act,

[25 USC 1901 to 1963](#), “relative” includes an extended family member, as defined in s. 48.028 (2) (am), whether by blood, marriage, or adoption, including adoption under tribal law or custom.

SECTION 9. 48.02 (18j) of the statutes is created to read:

48.02 (18j) “Tribal court” means a court that has jurisdiction over Indian child custody proceedings, and that is either a court of Indian offenses or a court established and operated under the code or custom of an Indian tribe, or any other administrative body of an Indian tribe that is vested with authority over Indian child custody proceedings.

SECTION 10. 48.028 of the statutes is repealed and recreated to read:

48.028 Indian child welfare. (1) DECLARATION OF POLICY. In Indian child custody proceedings, the best interests of the Indian child shall be determined in accordance with s. 48.01 (2).

(2) DEFINITIONS. In this section:

(a) “Adoptive placement” means the permanent placement of an Indian child for adoption.

(am) “Extended family member” means a person who is defined as a member of an Indian child’s extended family by the law or custom of the Indian child’s tribe or, in the absence of such a law or custom, a person who has attained the age of 18 years and who is the Indian child’s grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first cousin, 2nd cousin, or stepparent.

(b) “Former Indian custodian” means a person who was the Indian custodian of an Indian child before termination of parental rights to and adoption of the Indian child.

(c) “Former parent” means a person who was the parent of an Indian child before termination of parental rights to and adoption of the Indian child.

(d) “Indian child custody proceeding” means a proceeding governed by the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), in which any of the following may occur:

1. An adoptive placement.
2. An out-of-home care placement.
3. A preadoptive placement.
4. A termination of parental rights, as defined in s. 48.40 (2) to an Indian child.

(e) “Out-of-home care placement” means the removal of an Indian child from the home of his or her parent or Indian custodian for temporary placement in a foster home, treatment foster home, group home, residential care center for children and youth, or shelter care facility, in the home of a relative other than a parent, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the child returned upon demand. “Out-of-home care placement” does not include an adoptive placement, a preadoptive placement,

or holding an Indian child in custody under ss. 48.19 to 48.21.

(f) “Preadoptive placement” means the temporary placement of an Indian child in a foster home, treatment foster home, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in the home of a guardian after a termination of parental rights but prior to or in lieu of an adoptive placement.

(g) “Qualified expert witness” means a person who is any of the following:

1. A member of the Indian child’s tribe recognized by the Indian child’s tribal community as knowledgeable regarding the tribe’s customs relating to family organization or child-rearing practices.

2. A member of another tribe who is knowledgeable regarding the customs of the Indian child’s tribe relating to family organization or child-rearing practices.

3. A professional person having substantial education and experience in the person’s professional specialty and having substantial knowledge of the customs, traditions, and values of the Indian child’s tribe relating to family organization and child-rearing practices.

4. A layperson having substantial experience in the delivery of child and family services to Indians and substantial knowledge of the prevailing social and cultural standards and child-rearing practices of the Indian child’s tribe.

(h) “Reservation” means Indian country, as defined in [18 USC 1151](#), or any land not covered under that section to which title is either held by the United States in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual, subject to a restriction by the United States against alienation.

(3) JURISDICTION OVER INDIAN CHILD CUSTODY PROCEEDINGS. (a) *Applicability.* This section and the federal Indian Child Welfare Act, [25 USC 1901](#) to [1963](#), apply to any Indian child custody proceeding regardless of whether the Indian child is in the legal custody or physical custody of an Indian parent, Indian custodian, extended family member, or other person at the commencement of the proceeding and whether the Indian child resides or is domiciled on or off of a reservation. A court assigned to exercise jurisdiction under this chapter may not determine whether this section and the federal Indian Child Welfare Act, [25 USC 1901](#) to [1963](#), apply to an Indian child custody proceeding based on whether the Indian child is part of an existing Indian family.

(b) *Exclusive tribal jurisdiction.* 1. An Indian tribe shall have exclusive jurisdiction over any Indian child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except when that jurisdiction is otherwise vested in the state by federal law and except as provided in subd. 2. If an Indian child is a ward of a tribal court, the Indian tribe

shall retain exclusive jurisdiction regardless of the residence or domicile of the child.

2. Subdivision 1. does not prevent an Indian child who resides or is domiciled within a reservation, but who is temporarily located off the reservation, from being taken into and held in custody under ss. 48.19 to 48.21 in order to prevent imminent physical harm or damage to the Indian child. The person taking the Indian child into custody or the intake worker shall immediately release the Indian child from custody upon determining that holding the Indian child in custody is no longer necessary to prevent imminent physical damage or harm to the Indian child and shall expeditiously restore the Indian child to his or her parent or Indian custodian, release the Indian child to an appropriate official of the Indian child’s tribe, or initiate an Indian child custody proceeding, as may be appropriate.

(c) *Transfer of proceedings to tribe.* In any Indian child custody proceeding under this chapter involving an out-of-home placement of, or termination of parental rights to, an Indian child who is not residing or domiciled within the reservation of the Indian child’s tribe, the court assigned to exercise jurisdiction under this chapter shall, upon the petition of the Indian child’s parent, Indian custodian, or tribe, transfer the proceeding to the jurisdiction of the tribe unless any of the following applies:

1. A parent of the Indian child objects to the transfer.

2. The Indian child’s tribe does not have a tribal court, or the tribal court of the Indian child’s tribe declines jurisdiction.

3. The court determines that good cause exists to deny the transfer. In determining whether good cause exists to deny the transfer, the court may not consider any perceived inadequacy of the tribal social services department or the tribal court of the Indian child’s tribe. The court may determine that good cause exists to deny the transfer only if the person opposing the transfer shows by clear and convincing evidence that any of the following applies:

- a. The Indian child is 12 years of age or over and objects to the transfer.

- b. The evidence or testimony necessary to decide the case cannot be presented in tribal court without undue hardship to the parties or the witnesses and that the tribal court is unable to mitigate the hardship by making arrangements to receive the evidence or testimony by use of telephone or live audiovisual means, by hearing the evidence or testimony at a location that is convenient to the parties and witnesses, or by use of other means permissible under the tribal court’s rules of evidence.

- c. The Indian child’s tribe received notice of the proceeding under sub. (4) (a), the tribe has not indicated to the court in writing that the tribe is monitoring the proceeding and may request a transfer at a later date, the petition for transfer is filed by the tribe, and the petition for

transfer is filed more than 6 months after the tribe received notice of the proceeding or, if the proceeding is a termination of parental rights proceeding, more than 3 months after the tribe received notice of the proceeding.

(d) *Declination of jurisdiction.* If the court assigned to exercise jurisdiction under this chapter determines that the petitioner in an Indian child custody proceeding has improperly removed the Indian child from the custody of his or her parent or Indian custodian or has improperly retained custody of the Indian child after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and immediately return the Indian child to the custody of the parent or Indian custodian, unless the court determines that returning the Indian child to his or her parent or Indian custodian would subject the Indian child to substantial and immediate danger or the threat of that danger.

(e) *Intervention.* An Indian child's Indian custodian or tribe may intervene at any point in an Indian child custody proceeding under this chapter involving an out-of-home care placement of, or termination of parental rights to, the Indian child.

(f) *Full faith and credit.* The state shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe that are applicable to an Indian child custody proceeding to the same extent that the state gives full faith and credit to the public acts, records, and judicial proceedings of any other governmental entity.

(4) COURT PROCEEDINGS. (a) *Notice.* In any involuntary proceeding involving the out-of-home care placement of or termination of parental rights to a child whom the court knows or has reason to know is an Indian child, the party seeking the out-of-home care placement or termination of parental rights shall, for the first hearing of the proceeding, notify the Indian child's parent, Indian custodian, and tribe, by registered mail, return receipt requested, of the pending proceeding and of their right to intervene in the proceeding and shall file the return receipt with the court. Notice of subsequent hearings in a proceeding shall be in writing and may be given by mail, personal delivery, or facsimile transmission, but not by electronic mail. If the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, that notice shall be given to the U.S. secretary of the interior in like manner. The first hearing in the proceeding may not be held until at least 10 days after receipt of the notice by the parent, Indian custodian, and tribe or until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for that hearing.

(b) *Appointment of counsel.* Whenever an Indian child is the subject of a proceeding involving the removal of the Indian child from the home of his or her parent or

Indian custodian, placement of the Indian child in an out-of-home care placement, or termination of parental rights to the Indian child, the Indian child's parent or Indian custodian shall have the right to be represented by court-appointed counsel as provided in s. 48.23 (2g). The court may also, in its discretion, appoint counsel for the Indian child under s. 48.23 (1m) or (3) if the court finds that the appointment is in the best interests of the Indian child.

(c) *Examination of reports and other documents.* Each party to a proceeding involving the out-of-home care placement of, termination of parental rights to, or return of custody under sub. (8) (a) of an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to the out-of-home care placement, termination of parental rights, or return of custody may be based.

(d) *Out-of-home care placement; serious damage and active efforts.* The court may not order an Indian child to be removed from the home of the Indian child's parent or Indian custodian and placed in an out-of-home care placement unless all of the following occur:

1. The court or jury finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses chosen in the order of preference listed in par. (f), that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

2. The court or jury finds by clear and convincing evidence that active efforts, as described in par. (g) 1., have been made to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. The court or jury shall make that finding notwithstanding that a circumstance specified in s. 48.355 (2d) (b) 1. to 5. applies.

(e) *Involuntary termination of parental rights; serious damage and active efforts.* The court may not order an involuntary termination of parental rights to an Indian child unless all of the following occur:

1. The court or jury finds beyond a reasonable doubt, including the testimony of one or more qualified expert witnesses chosen in the order of preference listed in par. (f), that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

2. The court or jury finds by clear and convincing evidence that active efforts, as described in par. (g) 1., have been made to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

(f) *Qualified expert witness; order of preference.* 1. Any party to a proceeding involving the out-of-home placement of, or involuntary termination of parental rights to, an Indian child may call a qualified expert wit-

ness. Subject to subd. 2., a qualified expert witness shall be chosen in the following order of preference:

a. A member of the Indian child's tribe described in sub. (2) (g) 1.

b. A member of another tribe described in sub. (2) (g) 2.

c. A professional person described in sub. (2) (g) 3.

d. A layperson described in sub. (2) (g) 4.

2. A qualified expert witness from a lower order of preference may be chosen only if the party calling the qualified expert witness shows that it has made a diligent effort to secure the attendance of a qualified expert witness from a higher order of preference. A qualified expert witness from a lower order of preference may not be chosen solely because a qualified expert witness from a higher order of preference is able to participate in the Indian child custody proceeding only by telephone or live audiovisual means as prescribed in s. 807.13 (2). The fact that a qualified expert witness called by one party is from a lower order of preference under subd. 1. than a qualified expert witness called by another party may not be the sole consideration in weighing the testimony and opinions of the qualified expert witnesses. In weighing the testimony of all witnesses, the court shall consider as paramount the best interests of the Indian child as provided in s. 48.01 (2). The court shall determine the qualifications of a qualified expert witness as provided in ch. 907.

(g) *Active efforts standard.* 1. The court may not order an Indian child to be removed from the home of the Indian child's parent or Indian custodian and placed in an out-of-home care placement unless the evidence of active efforts under par. (d) 2. or (e) 2. shows that there has been an ongoing, vigorous, and concerted level of case work and that the active efforts were made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe and that utilizes the available resources of the Indian child's tribe, tribal and other Indian child welfare agencies, extended family members of the Indian child, other individual Indian caregivers, and other culturally appropriate service providers. The consideration by the court or jury of whether active efforts were made under par. (d) 2. or (e) 2. shall include whether all of the following activities were conducted:

a. Representatives designated by the Indian child's tribe with substantial knowledge of the prevailing social and cultural standards and child-rearing practice within the tribal community were requested to evaluate the circumstances of the Indian child's family and to assist in developing a case plan that uses the resources of the tribe and of the Indian community, including traditional and customary support, actions, and services, to address those circumstances.

am. A comprehensive assessment of the situation of the Indian child's family was completed, including a determination of the likelihood of protecting the Indian

child's health, safety, and welfare effectively in the Indian child's home.

b. Representatives of the Indian child's tribe were identified, notified, and invited to participate in all aspects of the Indian child custody proceeding at the earliest possible point in the proceeding and their advice was actively solicited throughout the proceeding.

c. Extended family members of the Indian child, including extended family members who were identified by the Indian child's tribe or parents, were notified and consulted with to identify and provide family structure and support for the Indian child, to assure cultural connections, and to serve as placement resources for the Indian child.

d. Arrangements were made to provide natural and unsupervised family interaction in the most natural setting that can ensure the Indian child's safety, as appropriate to the goals of the Indian child's permanency plan, including arrangements for transportation and other assistance to enable family members to participate in that interaction.

e. All available family preservation strategies were offered or employed and the involvement of the Indian child's tribe was requested to identify those strategies and to ensure that those strategies are culturally appropriate to the Indian child's tribe.

f. Community resources offering housing, financial, and transportation assistance and in-home support services, in-home intensive treatment services, community support services, and specialized services for members of the Indian child's family with special needs were identified, information about those resources was provided to the Indian child's family, and the Indian child's family was actively assisted or offered active assistance in accessing those resources.

g. Monitoring of client progress and client participation in services was provided.

h. A consideration of alternative ways of addressing the needs of the Indian child's family was provided, if services did not exist or if existing services were not available to the family.

2. If any of the activities specified in subd. 1. a. to h. were not conducted, the person seeking the out-of-home care placement or involuntary termination of parental rights shall submit documentation to the court explaining why the activity was not conducted.

(5) VOLUNTARY PROCEEDINGS; CONSENT; WITHDRAWAL. (a) *Out-of-home care placement.* A voluntary consent by a parent or Indian custodian to an out-of-home care placement of an Indian child under s. 48.63 (1) or (5) (b) is not valid unless the consent is executed in writing, recorded before a judge, and accompanied by a written certification by the judge that the terms and consequences of the consent were fully explained in detail to and were fully understood by the parent or Indian custodian. The judge shall also certify that the parent or Indian

custodian fully understood the explanation in English or that the explanation was interpreted into a language that the parent or Indian custodian understood. Any consent given under this paragraph prior to or within 10 days after the birth of the Indian child is not valid. A parent or Indian custodian who has executed a consent under this paragraph may withdraw the consent for any reason at any time, and the Indian child shall be returned to the parent or Indian custodian. A parent or Indian custodian who has executed a consent under this paragraph may also move to invalidate the out-of-home care placement under sub. (6).

(b) *Termination of parental rights.* A voluntary consent by a parent to a termination of parental rights under s. 48.41 (2) (e) is not valid unless the consent is executed in writing, recorded before a judge, and accompanied by a written certification by the judge that the terms and consequences of the consent were fully explained in detail to and were fully understood by the parent. The judge shall also certify that the parent fully understood the explanation in English or that the explanation was interpreted into a language that the parent understood. Any consent given under this paragraph prior to or within 10 days after the birth of the Indian child is not valid. A parent who has executed a consent under this paragraph may withdraw the consent for any reason at any time prior to the entry of a final order terminating parental rights, and the Indian child shall be returned to his or her parent unless an order or agreement specified in s. 48.368 (1) or 938.368 (1) provides for a different placement. After the entry of a final order terminating parental rights, a parent who has executed a consent under this paragraph may withdraw that consent as provided in par. (c), move to invalidate the termination of parental rights under sub. (6), or move for relief from the judgment under s. 48.46 (2).

(c) *Withdrawal of consent after order granting adoption.* After the entry of a final order granting adoption of an Indian child, a parent who has consented to termination of parental rights under s. 48.41 (2) (e) may withdraw that consent and move the court for relief from the judgment on the grounds that the consent was obtained through fraud or duress. Any such motion shall be filed within 2 years after the entry of an order granting adoption of the Indian child. A motion under this subsection does not affect the finality or suspend the operation of the judgment or order terminating parental rights or granting adoption. If the court finds that the consent was obtained through fraud or duress, the court shall vacate the judgment or order terminating parental rights and, if applicable, the order granting adoption and return the Indian child to the custody of the parent, unless an order or agreement specified in s. 48.368 (1) or 938.368 (1) that was in effect prior to the termination of parental rights provides for a different placement.

(6) **INVALIDATION OF ACTION.** Any Indian child who is the subject of an out-of-home care placement or of a

termination of parental rights proceeding, any parent or Indian custodian from whose custody that Indian child was removed, or the Indian child's tribe may move the court to invalidate that out-of-home care placement or termination of parental rights on the grounds that the out-of-home care placement was made or the termination of parental rights was ordered in violation of [25 USC 1911](#), [1912](#), or [1913](#). If the court finds that those grounds exist, the court shall invalidate the out-of-home care placement or termination of parental rights.

(7) **PLACEMENT OF INDIAN CHILD.** (a) *Adoptive placement; preferences.* Subject to pars. (c) and (d), in placing an Indian child for adoption, preference shall be given, in the absence of good cause, as described in par. (e), to the contrary, to a placement with one of the following, in the order of preference listed:

1. An extended family member of the Indian child.
2. Another member of the Indian child's tribe.
3. Another Indian family.

(b) *Out-of-home care or preadoptive placement; preferences.* Any Indian child who is accepted for an out-of-home care placement or a preadoptive placement shall be placed in the least restrictive setting that most approximates a family, that meets the Indian child's special needs, if any, and that is within reasonable proximity to the Indian child's home, taking into account those special needs. Subject to pars. (c) to (e), in placing an Indian child in an out-of-home care placement or a preadoptive placement, preference shall be given, in the absence of good cause, as described in par. (e), to the contrary, to a placement in one of the following, in the order of preference listed:

1. The home of an extended family member of the Indian child.
2. A foster home or treatment foster home licensed, approved, or specified by the Indian child's tribe.
3. An Indian foster home or treatment foster home licensed or approved by the department, a county department, or a child welfare agency.
4. A group home or residential care center for children and youth approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the needs of the Indian child.

(bm) *Temporary physical custody; preferences.* Any Indian child who is being held in temporary physical custody under s. 48.205 (1) shall be placed in compliance with par. (b) or, if applicable, par. (c), unless the person responsible for determining the placement finds good cause, as described in par. (e), for departing from the order of placement preference under par. (b) or finds that emergency conditions necessitate departing from that order. When the reason for departing from that order is resolved, the Indian child shall be placed in compliance with the order of placement preference under par. (b) or, if applicable, par. (c).

(c) *Tribal or personal preferences.* In placing an Indian child under par. (a), (b), or (bm), if the Indian child's tribe has established, by resolution, an order of preference that is different from the order specified in par. (a) or (b), the order of preference established by that tribe shall be followed, in the absence of good cause, as described in par. (e), to the contrary, so long as the placement under par. (a) is appropriate for the Indian child's special needs, if any, and the placement under par. (b) or (bm) is the least restrictive setting appropriate for the Indian child's needs as specified in par. (b). When appropriate, the preference of the Indian child or parent shall be considered, and, when a parent who has consented to the placement evidences a desire for anonymity, that desire shall be given weight, in determining the placement.

(d) *Social and cultural standards.* The standards to be applied in meeting the placement preference requirements of this subsection shall be the prevailing social and cultural standards of the Indian community in which the Indian child's parents or extended family members reside or with which the Indian child's parents or extended family members maintain social and cultural ties.

(e) *Good cause.* 1. Whether there is good cause to depart from the order of placement preference under par. (a), (b), or (c) shall be determined based on any one or more of the following considerations:

a. When appropriate, the request of the Indian child's parent or, if the Indian child is of sufficient age and developmental level to make an informed decision, the Indian child, unless the request is made for the purpose of avoiding the application of this section and the federal Indian Child Welfare Act, [25 USC 1901](#) to [1963](#).

b. Any extraordinary physical, mental, or emotional health needs of the Indian child requiring highly specialized treatment services as established by the testimony of an expert witness, including a qualified expert witness. The length of time that an Indian child has been in a placement does not, in itself, constitute an extraordinary emotional health need.

c. The unavailability of a suitable placement for the Indian child after diligent efforts have been made to place the Indian child in the order of preference under par. (a), (b), or (c).

2. The burden of establishing good cause to depart from the order of placement preference under par. (a), (b), or (c) shall be on the party requesting that departure.

(f) *Report of placement.* The department, a county department, or a child welfare agency shall maintain a record of each adoptive placement, out-of-home care placement, and preadoptive placement made of an Indian child, evidencing the efforts made to comply with the placement preference requirements specified in this subsection, and shall make that record available at any time on the request of the U.S. secretary of the interior or the Indian child's tribe.

(8) *RETURN OF CUSTODY.* (a) *Adoption vacated, set aside, or terminated.* If a final order granting adoption of an Indian child is vacated or set aside or if the parental rights to an Indian child of all adoptive parents of the Indian child are voluntarily terminated, the Indian child's former parent or former Indian custodian may petition for the return of custody of the Indian child. On receipt of a return of custody petition, the court shall set a date for a hearing on the petition that allows reasonable time for the parties to prepare. The court shall provide notice of the hearing to the guardian and legal custodian of the Indian child, to all other interested parties as provided in s. 48.27 (6), and to the Indian child's former parent and former Indian custodian. At the conclusion of the hearing, the court shall grant a petition for the return of custody of the Indian child to the Indian child's former parent or former Indian custodian unless there is a showing that return of custody is not in the best interests of the Indian child.

(b) *Removal from out-of-home care placement.* If an Indian child is removed from an out-of-home care placement for the purpose of placing the Indian child in another out-of-home care placement, a preadoptive placement, or an adoptive placement, the placement shall be made in accordance with this section. Removal of an Indian child from an out-of-home care placement for the purpose of returning the Indian child to the home of the parent or Indian custodian from whose custody the Indian child was originally removed is not subject to this section.

(9) *ADOPTEE INFORMATION.* (a) *Provision of information to U.S. secretary of the interior.* At the time a court enters an order granting adoption of an Indian child, the court shall provide the U.S. secretary of the interior with a copy of the order, together with such other records and papers pertaining to the adoption proceeding as may be necessary to provide that secretary with all of the following information:

1. The name and tribal affiliation of the Indian child.
2. The names and addresses of the Indian child's birth parents.
3. The names and addresses of the Indian child's adoptive parents.
4. The identity of any agency that has in its possession any files or information relating to the adoptive placement of the Indian child.

(b) *Confidentiality of parent's identity.* The court shall give the birth parent of an Indian child the opportunity to file an affidavit indicating that the birth parent wishes the U.S. secretary of the interior to maintain the confidentiality of the birth parent's identity. If the birth parent files that affidavit, the court shall include the affidavit with the information provided to the U.S. secretary of the interior under par. (a), and that secretary shall maintain the confidentiality of the birth parent's identity as required under [25 USC 1951](#) (a) and (b).

(c) *Provision of tribal affiliation to adoptee.* At the request of an Indian adoptee who is 18 years of age or older, the court that entered the order granting adoption of the adoptee shall provide or arrange to provide the adoptee with the tribal affiliation, if any, of the adoptee's birth parents and with such other information as may be necessary to protect any rights accruing to the adoptee as a result of that affiliation.

(10) HIGHER STATE OR FEDERAL STANDARD APPLICABLE. The federal Indian Child Welfare Act, 25 USC 1901 to 1963, supersedes this chapter in any Indian child custody proceeding governed by that act, except that in any case in which this chapter provides a higher standard of protection for the rights of an Indian child's parent or Indian custodian than the rights provided under that act, the court shall apply the standard under this chapter.

SECTION 11. 48.028 (2) (e) and (f) of the statutes, as affected by 2009 Wisconsin Act (this act), are amended to read:

48.028 (2) (e) "Out-of-home care placement" means the removal of an Indian child from the home of his or her parent or Indian custodian for temporary placement in a foster home, ~~treatment foster home~~, group home, residential care center for children and youth, or shelter care facility, in the home of a relative other than a parent, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the child returned upon demand. "Out-of-home care placement" does not include an adoptive placement, a preadoptive placement, or holding an Indian child in custody under ss. 48.19 to 48.21.

(f) "Preadoptive placement" means the temporary placement of an Indian child in a foster home, ~~treatment foster home~~, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in the home of a guardian after a termination of parental rights but prior to or in lieu of an adoptive placement.

SECTION 12. 48.028 (7) (b) 2. and 3. of the statutes, as affected by 2009 Wisconsin Act (this act), are amended to read:

48.028 (7) (b) 2. A foster home ~~or treatment foster home~~ licensed, approved, or specified by the Indian child's tribe.

3. An Indian foster home ~~or treatment foster home~~ licensed or approved by the department, a county department, or a child welfare agency.

SECTION 13. 48.13 (intro.) of the statutes is amended to read:

48.13 Jurisdiction over children alleged to be in need of protection or services. (intro.) The Except as provided in s. 48.028 (3), the court has exclusive original jurisdiction over a child alleged to be in need of protection or services which can be ordered by the court, and:

SECTION 14. 48.14 (intro.) of the statutes is amended to read:

48.14 Jurisdiction over other matters relating to children. (intro.) The Except as provided in s. 48.028 (3), the court has exclusive jurisdiction over:

SECTION 15. 48.14 (12) of the statutes is created to read:

48.14 (12) Proceedings under s. 48.028 (8) for the return of custody of an Indian child to his or her former parent, as defined in s. 48.028 (2) (c), or former Indian custodian, as defined in s. 48.028 (2) (b), following a vacation or setting aside of an order granting adoption of the Indian child or following an order voluntarily terminating parental rights to an Indian child of all adoptive parents of the Indian child.

SECTION 16. 48.15 of the statutes is amended to read:

48.15 Jurisdiction of other courts to determine legal custody. ~~Nothing contained in ss. 48.13, 48.133 and 48.14 Except as provided in s. 48.028 (3), nothing in this chapter deprives other courts another court~~ of the right to determine the legal custody of ~~children~~ a child by habeas corpus or to determine the legal custody or guardianship of ~~children~~ a child if the legal custody or guardianship is incidental to the determination of ~~causes an action~~ pending in the other courts. ~~But that court. Except as provided in s. 48.028 (3),~~ the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 938 is paramount in all cases involving children alleged to come within the provisions of ss. 48.13 and 48.14 and unborn children and their expectant mothers alleged to come within the provisions of ss. 48.133 and 48.14 (5).

SECTION 17. 48.19 (2) of the statutes is amended to read:

48.19 (2) When a child is taken into physical custody ~~as provided in~~ under this section, the person taking the child into custody shall immediately attempt to notify the parent, guardian ~~and~~, legal custodian, ~~and~~ Indian custodian of the child by the most practical means. The person taking the child into custody shall continue such attempt until the parent, guardian ~~and~~, legal custodian, ~~and~~ Indian custodian of the child are notified, or the child is delivered to an intake worker under s. 48.20 (3), whichever occurs first. If the child is delivered to the intake worker before the parent, guardian ~~and~~, legal custodian, ~~and~~ Indian custodian are notified, the intake worker, or another person at his or her direction, shall continue the attempt to notify until the parent, guardian ~~and~~, legal custodian, ~~and~~ Indian custodian of the child are notified.

SECTION 18. 48.195 (2) (d) 7. of the statutes is amended to read:

48.195 (2) (d) 7. A tribal court, or other adjudicative body authorized by an ~~American~~ Indian tribe ~~or band~~ to perform child welfare functions, that is exercising jurisdiction over proceedings relating to the child, an attorney representing the interests of the ~~American~~ Indian tribe ~~or band~~ in those proceedings, or an attorney representing the interests of the child in those proceedings.

SECTION 19. 48.20 (2) (ag) of the statutes is amended to read:

48.20 (2) (ag) Except as provided in pars. (b) to (d), a person taking a child into custody shall make every effort to release the child immediately to the child's parent, guardian ~~or~~ legal custodian, or Indian custodian.

SECTION 20. 48.20 (2) (b) of the statutes is amended to read:

48.20 (2) (b) If the child's parent, guardian ~~or~~ legal custodian, or Indian custodian is unavailable, unwilling, or unable to provide supervision for the child, the person who took the child into custody may release the child to a responsible adult after counseling or warning the child as may be appropriate.

SECTION 21. 48.20 (3) of the statutes is amended to read:

48.20 (3) If the child is released under sub. (2) (b) to (d), the person who took the child into custody shall immediately notify the child's parent, guardian ~~and~~ legal custodian, and Indian custodian of the time and circumstances of the release and the person, if any, to whom the child was released. If the child is not released under sub. (2), the person who took the child into custody shall arrange in a manner determined by the court and law enforcement agencies for the child to be interviewed by the intake worker under s. 48.067 (2), ~~and~~ The person who took the child into custody shall make a statement in writing with supporting facts of the reasons why the child was taken into physical custody and shall give any child 12 years of age or older a copy of the statement in addition to giving a copy to the intake worker. When and to any child 12 years of age or older. If the intake interview is not done in person, the report may be read to the intake worker.

SECTION 22. 48.20 (7) (c) (intro.) of the statutes is amended to read:

48.20 (7) (c) (intro.) The intake worker may release the child as follows:

SECTION 23. 48.20 (7) (c) 1. of the statutes is amended to read:

48.20 (7) (c) 1. To a parent, guardian ~~or~~ legal custodian, or Indian custodian, or, to a responsible adult if the parent, guardian ~~or~~ legal custodian, or Indian custodian is unavailable, unwilling, or unable to provide supervision for the child, ~~release the child to a responsible adult, counseling or warning the child as may be appropriate; or, if a the child is 15 years of age or older, release the child without immediate adult supervision, counseling or warning the child as may be appropriate; or~~

SECTION 24. 48.20 (7) (d) of the statutes is amended to read:

48.20 (7) (d) If the child is released from custody, the intake worker shall immediately notify the child's parent, guardian ~~and~~ legal custodian, and Indian custodian of the time and circumstances of the release and the person, if any, to whom the child was released.

SECTION 25. 48.20 (8) of the statutes is renumbered 48.20 (8) (a) and amended to read:

48.20 (8) (a) If a child is held in custody, the intake worker shall notify the child's parent, guardian ~~and~~ legal custodian, and Indian custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian ~~and~~ legal custodian, and Indian custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, ~~and the right to present and cross-examine witnesses at the hearing, and, in the case of a parent or Indian custodian of an Indian child who is the subject of an Indian child custody proceeding, as defined in s. 48.028 (2) (d) 2., the right to counsel under s. 48.028 (4) (b).~~ If the parent, guardian ~~or~~ legal custodian, or Indian custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is 12 years of age or older, the child shall receive the same notice about the detention hearing as the parent, guardian ~~or~~ legal custodian, or Indian custodian. The intake worker shall notify both the child and the child's parent, guardian ~~or~~ legal custodian, When, or Indian custodian.

(b) If the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child, through the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody and about the detention hearing as the child expectant mother and her parent, guardian ~~or~~ legal custodian, or Indian custodian. The intake worker shall notify the child expectant mother, her parent, guardian ~~or~~ legal custodian, or Indian custodian and the unborn child, by the unborn child's guardian ad litem.

SECTION 26. 48.207 (1g) of the statutes is created to read:

48.207 (1g) An Indian child held in physical custody under s. 48.205 (1) shall be placed in compliance with s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the person responsible for determining the placement finds good cause, as described in s. 48.028 (7) (e), for departing from the order of placement preference under s. 48.028 (7) (b) or finds that emergency conditions necessitate departing from that order. When the reason for departing from that order is resolved, the Indian child shall be placed in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c).

SECTION 27. 48.21 (3) (am) of the statutes is amended to read:

48.21 (3) (am) The parent, guardian, ~~or~~ legal custodian, or Indian custodian may waive his or her right to

participate in the hearing under this section. After any waiver, a rehearing shall be granted at the request of the parent, guardian, legal custodian, Indian custodian, or any other interested party for good cause shown.

SECTION 28. 48.21 (3) (b) of the statutes is amended to read:

48.21 (3) (b) If present at the hearing, a copy of the petition or request shall be given to the parent, guardian ~~or~~ legal custodian, or Indian custodian, and to the child if he or she is 12 years of age or older, before the hearing begins. If the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., a copy of the petition shall also be given to the unborn child, through the unborn child's guardian ad litem, before the hearing begins. Prior notice of the hearing shall be given to the child's parent, guardian ~~and~~ legal custodian, and Indian custodian, to the child if he or she is 12 years of age or older and, if the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., to the unborn child, through the unborn child's guardian ad litem, ~~in accordance with~~ under s. 48.20 (8).

SECTION 29. 48.21 (3) (d) of the statutes is amended to read:

48.21 (3) (d) Prior to the commencement of the hearing, the court shall inform the parent, guardian ~~or~~ legal custodian ~~shall be informed by the court, or Indian custodian~~ of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to present, confront, and cross-examine witnesses ~~and the right to present witnesses, and, in the case of a parent or Indian custodian of an Indian child who is the subject of an Indian child custody proceeding under s. 48.028 (2) (d) 2., the right to counsel under s. 48.028 (4) (b).~~

SECTION 30. 48.21 (3) (e) of the statutes is amended to read:

48.21 (3) (e) If the parent, guardian ~~or~~ legal custodian, Indian custodian, or the child is not represented by counsel at the hearing and the child is continued in custody as a result of the hearing, the parent, guardian, legal custodian, Indian custodian, or child may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold the child in custody be reheard. If the request is made, a rehearing shall take place as soon as possible. ~~Any~~ An order to hold the child in custody shall be ~~subject to rehearing~~ reheard for good cause, whether or not counsel was present.

SECTION 31. 48.21 (5) (d) 1. of the statutes is renumbered 48.21 (5) (d) and amended to read:

48.21 (5) (d) If the judge or circuit court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge or circuit court commissioner shall hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the child. ~~If a hearing is held under this subdivision, the~~

agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.

SECTION 32. 48.21 (5) (d) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 33. 48.21 (5) (d) 3. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 34. 48.23 (2) of the statutes is amended to read:

48.23 (2) Whenever a child is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. ~~A~~ Except as provided in sub. (2g), a minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

SECTION 35. 48.23 (2g) of the statutes is created to read:

48.23 (2g) RIGHT OF INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN TO COUNSEL. Whenever an Indian child is the subject of a proceeding involving the removal of the Indian child from the home of his or her parent or Indian custodian, placement of the Indian child in an out-of-home care placement, or termination of parental rights to the Indian child, the Indian child's parent or Indian custodian shall have the right to be represented by counsel as provided in subs. (2) and (4).

SECTION 36. 48.23 (3) of the statutes is amended to read:

48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s. 48.13, at any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. ~~The~~ Except as provided in sub. (2g), the court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

SECTION 37. 48.23 (4) of the statutes is amended to read:

48.23 (4) PROVIDING COUNSEL. ~~In any situation under this section in which~~ If a child has a right to be represented by counsel or is provided counsel at the discretion of the court under this section and counsel is not knowingly and voluntarily waived, the court shall refer the child to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a child who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24

hours after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the child in any appeal brought under s. 809.105 unless the child requests substitution of counsel or extenuating circumstances make it impossible for counsel to continue to represent the child. In any situation under sub. (2), (2g), or (2m) in which a parent 18 years of age or over or an adult expectant mother is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.

SECTION 38. 48.235 (4) (a) 7. of the statutes is amended to read:

48.235 (4) (a) 7. Petition for relief from a judgment terminating parental rights under s. 48.028 or 48.46.

SECTION 39. 48.235 (4m) (a) 7. of the statutes is amended to read:

48.235 (4m) (a) 7. Petition for relief from a judgment terminating parental rights under s. 48.028 or 48.46 after the child is born.

SECTION 40. 48.255 (1) (cm) of the statutes is amended to read:

48.255 (1) (cm) Whether the child may be subject to the federal Indian child welfare act Child Welfare Act, 25 USC 1911 1901 to 1963, and, if the child may be subject to that act, the names and addresses of the child's Indian custodian, if any, and Indian tribe, if known.

SECTION 41. 48.255 (1) (g) of the statutes is created to read:

48.255 (1) (g) If the petitioner knows or has reason to know that the child is an Indian child, and if the child has been removed from the home of his or her parent or Indian custodian, reliable and credible information showing that continued custody of the child by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1. and reliable and credible information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. The petition shall set forth with specificity both the information required under this paragraph and the information required under par. (f).

SECTION 42. 48.255 (1m) (d) of the statutes is amended to read:

48.255 (1m) (d) Whether the unborn child, when born, may be subject to the federal Indian Child Welfare Act, 25 USC 1911 1901 to 1963, and, if the unborn child may be subject to that act, the name and address of the Indian tribe in which the unborn child may be eligible for affiliation when born, if known.

SECTION 43. 48.255 (1m) (g) of the statutes is created to read:

48.255 (1m) (g) If the petitioner knows or has reason to know that the expectant mother is an Indian child, and if the child expectant mother has been removed from the home of her parent or Indian custodian, reliable and credible information showing that continued custody of the child expectant mother by her parent or Indian custodian is likely to result in serious emotional or physical damage to the child expectant mother under s. 48.028 (4) (d) 1. and reliable and credible information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. The petition shall set forth with specificity both the information required under this paragraph and the information required under par. (f).

SECTION 44. 48.255 (2) of the statutes is amended to read:

48.255 (2) If any of the facts required under sub. (1) (a) to (cm) and, (f), and (g) or (1m) (a) to (d) and, (f), and (g) are not known or cannot be ascertained by the petitioner, the petition shall so state.

SECTION 45. 48.255 (4) of the statutes is amended to read:

48.255 (4) A copy of a petition under sub. (1) shall be given to the child if the child is 12 years of age or over and to the parents, guardian, legal custodian and physical custodian. A copy of a petition under sub. (1m) shall be given to the child expectant mother, if 12 years of age or over, her parents, guardian, legal custodian and physical custodian and the unborn child by the unborn child's guardian ad litem or to the adult expectant mother, the unborn child through the unborn child's guardian ad litem and the physical custodian of the expectant mother, if any. -A- If the child is an Indian child who has been removed from the home of his or her parent or Indian custodian or the unborn child will be an Indian child when born, a copy of a petition under sub. (1) or (1m) shall also be given to the tribe or band with which the child is affiliated or Indian child's Indian custodian and tribe or the Indian tribe with which the unborn child may be eligible for affiliation when born, if the child is an Indian child or the unborn child may be an Indian child when born.

SECTION 46. 48.27 (3) (a) 1. of the statutes is amended to read:

48.27 (3) (a) 1. If the petition that was filed relates to facts concerning a situation under s. 48.13 or a situation under s. 48.133 involving an expectant mother who is a child, the court shall also notify, under s. 48.273, the child, any parent, guardian, and legal custodian of the child, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the child, the unborn child by the unborn child's guardian ad litem, if applicable, and any person specified in par. (b), (d), or (e), if applicable, of all hearings involving the child except hearings on motions for which notice need only must be provided only to the child and his or her counsel. ~~When~~ If parents who are entitled to notice have the same place of residence, notice to one shall constitute constitutes notice to the other. The first notice to any interested party, foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) shall be written in writing and may have a copy of the petition attached to it. ~~Thereafter, notice of~~ Notices of subsequent hearings may be given by telephone at least 72 hours before the time of the hearing. The person giving telephone notice shall place in the case file a signed statement of the time notice was given and the person to whom he or she spoke.

SECTION 47. 48.27 (3) (a) 1. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.27 (3) (a) 1. If the petition that was filed relates to facts concerning a situation under s. 48.13 or a situation under s. 48.133 involving an expectant mother who is a child, the court shall notify, under s. 48.273, the child, any parent, guardian, and legal custodian of the child, any foster parent or other physical custodian described in s. 48.62 (2) of the child, the unborn child by the unborn child's guardian ad litem, if applicable, and any person specified in par. (b), (d), or (e), if applicable, of all hearings involving the child except hearings on motions for which notice must be provided only to the child and his or her counsel. If parents who are entitled to notice have the same place of residence, notice to one constitutes notice to the other. The first notice to any interested party, foster parent, or other physical custodian described in s. 48.62 (2) shall be in writing and may have a copy of the petition attached to it. Notices of subsequent hearings may be given by telephone at least 72 hours before the time of the hearing. The person giving telephone notice shall place in the case file a signed statement of the time notice was given and the person to whom he or she spoke.

SECTION 48. 48.27 (3) (d) of the statutes is amended to read:

48.27 (3) (d) If the petition that was filed relates to facts concerning a situation under s. 48.13 or 48.133 involving an Indian child who has been removed from the home of his or her parent or Indian custodian or a situation under s. 48.133 ~~concerning~~ involving an unborn child who, when born, will be an Indian child, the court

shall notify, under s. 48.273, the Indian child's Indian custodian and tribe or the Indian tribe or band with which the unborn child will be affiliated may be eligible for affiliation when born and that Indian custodian or tribe or band may, at the court's discretion, intervene at any point in the proceeding before the unborn child is born.

SECTION 49. 48.27 (4) (a) 2. of the statutes is amended to read:

48.27 (4) (a) 2. Advise the child and any party, if applicable, of his or her right to legal counsel regardless of ability to pay.

SECTION 50. 48.273 (1) of the statutes is renumbered 48.273 (1) (a) and amended to read:

48.273 (1) (a) Service Except as provided in pars. (ag), (ar), and (b), service of summons or notice required by s. 48.27 may be made by mailing a copy thereof of the summons or notice to the persons person summoned or notified. If

(ar) Except as provided in par. (b), if the persons fail person fails to appear at the hearing or otherwise to acknowledge service, a continuance shall be granted, ~~except where the court determines otherwise because the child is in secure custody,~~ and service shall be made personally by delivering to the persons person a copy of the summons or notice; except that if the court is satisfied determines that it is impracticable to serve the summons or notice personally, ~~it the court~~ may make an order ~~providing for the service of the summons or notice by certified mail addressed to the last-known addresses~~ address of the persons. person.

(b) The court may refuse to grant a continuance when the child is being held in secure custody, but in such a case the court if the court so refuses, the court shall order that service of notice of the next hearing be made personally or by certified mail to the last-known address of the person who failed to appear at the hearing.

(c) Personal service shall be made at least 72 hours before the time of the hearing. Mail shall be sent at least 7 days before the time of the hearing, except where as follows:

1. When the petition is filed under s. 48.13 and the person to be notified lives outside the state, ~~in which case the mail shall be sent at least 14 days before the time of the hearing.~~

SECTION 51. 48.273 (1) (ag) of the statutes is created to read:

48.273 (1) (ag) In a situation described in s. 48.27 (3) (d) involving an Indian child, service of summons or notice required by s. 48.27 to the Indian child's parent, Indian custodian, or tribe shall be made as provided in s. 48.028 (4) (a).

SECTION 52. 48.273 (1) (c) 2. of the statutes is created to read:

48.273 (1) (c) 2. When a petition under s. 48.13 or 48.133 involves an Indian child who has been removed from the home of his or her parent or Indian custodian and

the person to be notified is the Indian child's parent, Indian custodian, or tribe, the mail shall be sent so that it is received by the person to be notified at least 10 days before the hearing or, if the identity or location of the person to be notified cannot be determined, by the U.S. secretary of the interior at least 15 days before the hearing.

SECTION 53. 48.299 (6) (d) of the statutes is amended to read:

48.299 (6) (d) The court may stay the proceedings under this chapter pending the outcome of the paternity proceedings under subch. IX of ch. 767 if the court determines that the paternity proceedings will not unduly delay the proceedings under this chapter and the determination of paternity is necessary to the court's disposition of the child if the child is found to be in need of protection or services or if the court determines or has reason to know that the paternity proceedings may result in a finding that the child is an Indian child and in a petition by the child's parent, Indian custodian, or tribe for transfer of the proceeding to the jurisdiction of the tribe.

SECTION 54. 48.299 (9) of the statutes is created to read:

48.299 (9) If at any point in the proceeding the court determines or has reason to know that the child is an Indian child, the court shall provide notice of the proceeding to the child's parent, Indian custodian, and tribe in the manner specified in s. 48.028 (4) (a). The next hearing in the proceeding may not be held until at least 10 days after receipt of the notice by the parent, Indian custodian, and tribe or, if the identity or location of the parent, Indian custodian, expectant mother, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for that hearing.

SECTION 55. 48.30 (1) of the statutes is amended to read:

48.30 (1) Except as provided in this subsection s. 48.299 (9), the hearing to determine whether any party wishes to contest an allegation that the child or unborn child is in need of protection or services shall take place on a date which allows reasonable time for the parties to prepare but is within 30 days after the filing of a petition for a child or an expectant mother who is not being held in secure custody or within 10 days after the filing of a petition for a child who is being held in secure custody.

SECTION 56. 48.30 (2) of the statutes is amended to read:

48.30 (2) At the commencement of the hearing under this section the child and the parent, guardian ~~or~~ legal custodian, or Indian custodian; the child expectant mother, her parent, guardian ~~or~~ legal custodian, or Indian custodian, and the unborn child through the unborn child's guardian ad litem; or the adult expectant mother and the unborn child through the unborn child's guardian

ad litem; shall be advised of their rights as specified in s. 48.243 and shall be informed that a request for a jury trial or for a substitution of judge under s. 48.29 must be made before the end of the plea hearing or be is waived. Nonpetitioning parties, including the child, shall be granted a continuance of the plea hearing if they wish to consult with an attorney on the request for a jury trial or substitution of a judge.

SECTION 57. 48.30 (6) (a) of the statutes is amended to read:

48.30 (6) (a) If a petition is not contested, the court, subject to s. 48.299 (9), shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than 10 days after the plea hearing for a child who is held in secure custody and no more than 30 days after the plea hearing for a child or an expectant mother who is not held in secure custody. If Subject to s. 48.299 (9), if all parties consent, the court may proceed immediately with the dispositional hearing.

SECTION 58. 48.30 (7) of the statutes is amended to read:

48.30 (7) If the petition is contested, the court, subject to s. 48.299 (9), shall set a date for the fact-finding hearing which allows reasonable time for the parties to prepare but is no more than 20 days after the plea hearing for a child who is held in secure custody and no more than 30 days after the plea hearing for a child or an expectant mother who is not held in secure custody.

SECTION 59. 48.305 of the statutes is amended to read:

48.305 Hearing upon the involuntary removal of a child or expectant mother. Notwithstanding other time periods for hearings under this chapter, if a child is removed from the physical custody of the child's parent or guardian under s. 48.19 (1) (c) or (cm) or (d) 5. or 8. without the consent of the parent or guardian or if an adult expectant mother is taken into custody under s. 48.193 (1) (c) or (d) 2. without the consent of the expectant mother, the court, subject to s. 48.299 (9), shall schedule a plea hearing and fact-finding hearing within 30 days after a request from the parent or guardian from whom custody was removed or from the adult expectant mother who was taken into custody. The plea hearing and fact-finding hearing may be combined. This time period may be extended only with the consent of the requesting parent, guardian, or expectant mother.

SECTION 60. 48.31 (1) of the statutes is amended to read:

48.31 (1) In this section, "fact-finding hearing" means a hearing to determine if the allegations in a petition under s. 48.13 or 48.133 or a petition to terminate parental rights are proved by clear and convincing evidence. In the case of a petition to terminate parental rights to an Indian child, "fact-finding hearing" means a hearing to determine if the allegations in the petition, other than the allegations under s. 48.42 (1) (e) relating

to serious emotional or physical damage, are proved by clear and convincing evidence and if the allegations under s. 48.42 (1) (e) relating to serious emotional or physical damage are proved beyond a reasonable doubt as provided in s. 48.028 (4) (e) 1., unless partial summary judgment on the grounds for termination of parental rights is granted.

SECTION 61. 48.31 (5) of the statutes is created to read:

48.31 (5) If the child is an Indian child, the court or jury shall also determine at the fact-finding hearing whether continued custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child under s. 48.028 (4) (d) 1. and whether active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and whether those efforts have proved unsuccessful, unless partial summary judgment on the allegations under s. 48.13 or 48.133 is granted, in which case the court shall make those determinations at the dispositional hearing.

SECTION 62. 48.31 (7) (a) of the statutes is amended to read:

48.31 (7) (a) At the close of the fact-finding hearing, the court, subject to s. 48.299 (9), shall set a date for the dispositional hearing which allows a reasonable time for the parties to prepare but is no more than 10 days after the fact-finding hearing for a child in secure custody and no more than 30 days after the fact-finding hearing for a child or expectant mother who is not held in secure custody. ~~If Subject to s. 48.299 (9), if~~ all parties consent, the court may immediately proceed with a dispositional hearing.

SECTION 63. 48.315 (1) (j) of the statutes is created to read:

48.315 (1) (j) A reasonable period of delay, not to exceed 20 days, in a proceeding involving the out-of-home care placement of or termination of parental rights to a child whom the court knows or has reason to know is an Indian child, resulting from a continuance granted at the request of the child's parent, Indian custodian, or tribe to enable the requester to prepare for the proceeding.

SECTION 64. 48.315 (1m) of the statutes is amended to read:

48.315 (1m) Subsection (1) (a), (d), (e) ~~and, (fm), (g), and (j)~~ does not apply to proceedings under s. 48.375 (7).

SECTION 65. 48.32 (1) (c) 1. of the statutes is renumbered 48.32 (1) (c) and amended to read:

48.32 (1) (c) If the judge or circuit court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge or circuit court commissioner shall hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the child. ~~If a hearing is held under this subdivision, the~~

agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.

SECTION 66. 48.32 (1) (c) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 67. 48.32 (1) (c) 3. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 68. 48.32 (1) (d) of the statutes is created to read:

48.32 (1) (d) 1. In the case of an Indian child, if at the time the consent decree is entered into the Indian child is placed outside the home of his or her parent or Indian custodian under a voluntary agreement under s. 48.63 or is otherwise living outside that home without a court order and if the consent decree maintains the Indian child in that placement or other living arrangement, the consent decree shall include a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1. and a finding that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. The findings under this subdivision shall be in addition to the findings under par. (b) 1., except that for the sole purpose of determining whether the cost of providing care for an Indian child is eligible for reimbursement under [42 USC 670 to 679b](#), the findings under this subdivision and the findings under par. (b) 1. shall be considered to be the same findings.

2. If the placement or other living arrangement under subd. 1. departs from the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), the court shall also find good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 69. 48.33 (4) (d) of the statutes is created to read:

48.33 (4) (d) If the agency knows or has reason to know that the child is an Indian child who is being removed from the home of his or her parent or Indian custodian, a description of any efforts undertaken to determine whether the child is an Indian child; specific information showing that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1.; specific information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful; a statement as to whether the out-of-home care placement recommended is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c); and, if the recommended placement is not in compliance with that order, specific information showing good cause, as

described in s. 48.028 (7) (e), for departing from that order.

SECTION 70. 48.335 (3j) of the statutes is created to read:

48.335 (3j) At hearings under this section involving an Indian child, if the agency, as defined in s. 48.38 (1) (a), is recommending removal of the Indian child from the home of his or her parent or Indian custodian and placement of the Indian child in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent, the agency shall present as evidence specific information showing all of the following:

(a) That continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child under s. 48.028 (4) (d) 1.

(b) That active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

(c) That the placement recommended is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) or, if that placement is not in compliance with that order, good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 71. 48.335 (3j) (intro.) of the statutes, as created by 2009 Wisconsin Act (this act), is amended to read:

48.335 (3j) (intro.) At hearings under this section involving an Indian child, if the agency, as defined in s. 48.38 (1) (a), is recommending removal of the Indian child from the home of his or her parent or Indian custodian and placement of the Indian child in a foster home, ~~treatment foster home,~~ group home, or residential care center for children and youth or in the home of a relative other than a parent, the agency shall present as evidence specific information showing all of the following:

SECTION 72. 48.345 (3) (intro.) of the statutes is amended to read:

48.345 (3) (intro.) Designate Subject to sub. (3m), designate one of the following as the placement for the child:

SECTION 73. 48.345 (3m) of the statutes is created to read:

48.345 (3m) Subject to s. 48.028 (7) (c), if the child is an Indian child who is being removed from the home of his or her parent or Indian custodian and placed outside of that home, designate one of the placements listed in s. 48.028 (7) (b) 1. to 4. as the placement for the Indian child, in the order of preference listed, unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 74. 48.355 (2) (b) 6v. of the statutes is created to read:

48.355 (2) (b) 6v. If the child is an Indian child who is being removed from the home of his or her parent or Indian custodian and placed outside that home, a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1. and a finding that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. The findings under this subdivision shall be in addition to the findings under subd. 6., except that for the sole purpose of determining whether the cost of providing care for an Indian child is eligible for reimbursement under 42 USC 670 to 679b, the findings under this subdivision and the findings under subd. 6. shall be considered to be the same findings. The findings under this subdivision are not required if they were made in a previous order in the proceeding unless a change in circumstances warrants new findings.

SECTION 75. 48.355 (2) (d) of the statutes is amended to read:

48.355 (2) (d) The court shall provide a copy of a dispositional order relating to a child in need of protection or services to the child's parent, guardian, legal custodian, or trustee, to the child through the child's counsel or guardian ad litem ~~and,~~ to the child's court-appointed special advocate, and, if the child is an Indian child who has been removed from the home of his or her parent or Indian custodian and placed outside that home, to the Indian child's Indian custodian and tribe. The court shall provide a copy of a dispositional order relating to an unborn child in need of protection or services to the expectant mother, to the unborn child through the unborn child's guardian ad litem ~~and, if the expectant mother is a child, to her,~~ to the parent, guardian, legal custodian, or trustee of a child expectant mother and, if the expectant mother is an Indian child, to the expectant mother's Indian custodian and tribe.

SECTION 76. 48.355 (2d) (c) 1. of the statutes is renumbered 48.355 (2d) (c) and amended to read:

48.355 (2d) (c) If the court finds that any of the circumstances ~~specified in~~ under par. (b) 1. to 5. applies with respect to a parent, the court shall hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the child. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 77. 48.355 (2d) (c) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 78. 48.355 (2d) (c) 3. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 79. 48.355 (2d) (d) of the statutes is created to read:

48.355 (2d) (d) This subsection does not affect the requirement under sub. (2) (b) 6v. that the court include in a dispositional order removing an Indian child from the home of his or her parent or Indian custodian and placing the child outside that home a finding that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

SECTION 80. 48.357 (1) (am) 1. of the statutes is amended to read:

48.357 (1) (am) 1. If the proposed change in placement involves any change in placement other than a change in placement specified in par. (c), the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel shall cause written notice of the proposed change in placement to be sent to the child, the parent, guardian, and legal custodian of the child, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special advocate, and, if the child is an Indian child who has been removed from the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe. If the child is the expectant mother of an unborn child under s. 48.133, written notice shall also be sent to the unborn child by the unborn child's guardian ad litem. If the change in placement involves an adult expectant mother is an adult of an unborn child under s. 48.133, written notice shall be sent to the adult expectant mother and the unborn child by the unborn child's guardian ad litem. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

SECTION 81. 48.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.357 (1) (am) 1. If the proposed change in placement involves any change in placement other than a change in placement specified in par. (c), the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel shall cause written notice of the proposed change in placement to be sent to the child, the parent, guardian, and legal custodian of the child, any foster parent or other physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special advocate, and, if the child is an Indian child who has been removed from the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe. If the child is the expectant mother of an unborn child under s. 48.133, written notice shall also be sent to the unborn child by the

unborn child's guardian ad litem. If the change in placement involves an adult expectant mother of an unborn child under s. 48.133, written notice shall be sent to the adult expectant mother and the unborn child by the unborn child's guardian ad litem. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

SECTION 82. 48.357 (1) (am) 1g. of the statutes is created to read:

48.357 (1) (am) 1g. If the child is an Indian child who has been removed from the home of his or her parent or Indian custodian and if the proposed change in placement would change the Indian child's placement from a placement outside that home to another placement outside that home, a notice under subd. 1. shall also contain a statement as to whether the new placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 83. 48.357 (1) (am) 2. of the statutes is renumbered 48.357 (1) (am) 2. (intro.) and amended to read:

48.357 (1) (am) 2. (intro.) Any person receiving the notice under subd. 1. or notice of a specific placement under s. 48.355 (2) (b) 2., other than a court-appointed special advocate, may obtain a hearing on the matter by filing an objection with the court within 10 days after receipt of the notice. Placements Except as provided in subd. 2m., placements may not be changed until 10 days after that notice is sent to the court unless written waivers of objection are signed as follows:

a. By the parent, guardian, or legal custodian and, or Indian custodian, the child, if 12 years of age or over, or and the child's tribe, if the child is an Indian child who has been removed from the home of his or her parent or Indian custodian.

b. By the child expectant mother, if 12 years of age or over, her parent, guardian, or legal custodian and, or Indian custodian, the unborn child by the unborn child's guardian ad litem, or and the child expectant mother's tribe, if she is an Indian child who has been removed from the home of her parent or Indian custodian.

c. By the adult expectant mother and the unborn child by the unborn child's guardian ad litem, sign written waivers of objection, except that changes,

2m. Changes in placement that were authorized in the dispositional order may be made immediately if notice is given as required under subd. 1. In addition, a hearing is not required for placement changes authorized in the dispositional order except when an objection filed by a person who received notice alleges that new information is

available that affects the advisability of the court's dispositional order.

SECTION 84. 48.357 (1) (am) 3. of the statutes is amended to read:

48.357 (1) (am) 3. If the court changes the child's placement from a placement outside the home to another placement outside the home, the change in placement order shall contain the applicable order ~~specified in under~~ sub. (2v) (a) 1m. and the applicable statement ~~specified in under~~ sub. (2v) (a) 2. If the court changes the placement of an Indian child who has been removed from the home of his or her parent or Indian custodian from a placement outside that home to another placement outside that home, the change in placement order shall, in addition, comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 85. 48.357 (1) (c) 1m. of the statutes is created to read:

48.357 (1) (c) 1m. If the child is an Indian child and if the proposed change in placement would change the placement of the child from a placement in the home of his or her parent or Indian custodian to a placement outside that home, a request under subd. 1. shall also contain specific information showing that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1., specific information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful, a statement as to whether the new placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 86. 48.357 (1) (c) 2. of the statutes is amended to read:

48.357 (1) (c) 2. The court shall hold a hearing prior to ordering any change in placement requested under subd. 1. Not less than 3 days prior to the hearing, the court shall provide notice of the hearing, together with a copy of the request for the change in placement, to the child, the parent, guardian, and legal custodian of the child, the child's court-appointed special advocate, ~~and all parties that are bound by the dispositional order.~~ If, and, if the child is an Indian child, the Indian child's Indian custodian and tribe. Subject to subd. 2m., if all parties consent, the court may proceed immediately with the hearing.

SECTION 87. 48.357 (1) (c) 2m. of the statutes is created to read:

48.357 (1) (c) 2m. If the child is an Indian child and if the proposed change in placement would change the placement of the child from a placement in the home of

his or her parent or Indian custodian to a placement outside that home, notice under subd. 2. to the Indian child's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). No hearing on the request may be held until at least 10 days after receipt of the notice by the Indian child's parent, Indian custodian, and tribe or, if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 88. 48.357 (1) (c) 3. of the statutes is amended to read:

48.357 (1) (c) 3. If the court changes the child's placement from a placement in the child's home to a placement outside the child's home, the change in placement order shall contain the findings ~~specified in under~~ sub. (2v) (a) 1., the applicable order ~~specified in under~~ sub. (2v) (a) 1m., the applicable statement ~~specified in under~~ sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances ~~specified in under~~ s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination ~~specified in under~~ sub. (2v) (a) 3. If the court changes the placement of an Indian child from a placement in the home of his or her parent or Indian custodian to a placement outside that home, the change in placement order shall, in addition, contain the findings under sub. (2v) (a) 4. and comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from the order.

SECTION 89. 48.357 (2m) (a) of the statutes is amended to read:

48.357 (2m) (a) The child, the parent, guardian, ~~or legal custodian, or Indian custodian~~ of the child, the expectant mother, the unborn child by the unborn child's guardian ad litem, or any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order, may request a change in placement under this paragraph. The request shall contain the name and address of the new placement requested and shall state what new information is available that affects the advisability of the current placement. If the proposed change in placement would change the placement of a child placed in the child's home to a placement outside the child's home, the request shall also contain specific information showing that continued placement of the child in the home would be contrary to the welfare of the child and, unless any of the circumstances ~~specified in under~~ s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency primarily responsible for implementing the dispositional order has made reasonable efforts to prevent the removal

of the child from the home, while assuring that the child's health and safety are the paramount concerns. The request shall be submitted to the court. ~~In addition, the~~ The court may also propose a change in placement on its own motion.

SECTION 90. 48.357 (2m) (am) of the statutes is created to read:

48.357 (2m) (am) 1. If the proposed change of placement would change the placement of an Indian child placed in the home of his or her parent or Indian custodian to a placement outside that home, a request under par. (a) shall also contain specific information showing that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1., specific information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful, a statement as to whether the new placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 48.028 (7) (e), for departing from that order.

2. If the proposed change in placement would change the placement of an Indian child placed outside the home of his or her parent or Indian custodian to another placement outside that home, a request under par. (a) shall also contain a statement as to whether the new placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 91. 48.357 (2m) (b) of the statutes is amended to read:

48.357 (2m) (b) The court shall hold a hearing ~~on the matter~~ prior to ordering any change in placement requested or proposed under par. (a) if the request states that new information is available that affects the advisability of the current placement, ~~unless, A hearing is not required if~~ the requested or proposed change in placement involves any change in placement other than does not involve a change in placement of a child placed in the child's home to a placement outside the child's home and, written waivers of objection to the proposed change in placement are signed by all persons entitled to receive notice under sub. (1) (am) 1. this paragraph, other than a court-appointed special advocate, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the court shall notify the child, the parent, guardian, and legal custodian of the child, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special advocate, all parties who are

bound by the dispositional order, and, if the child is an Indian child, the Indian child's Indian custodian and tribe. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem, or, If the change in placement involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child by the unborn child's guardian ad litem, and all parties who are bound by the dispositional order, at least 3 days prior to the hearing. A copy of the request or proposal for the change in placement shall be attached to the notice. If Subject to par. (bm), if all of the parties consent, the court may proceed immediately with the hearing.

SECTION 92. 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in placement requested or proposed under par. (a) if the request states that new information is available that affects the advisability of the current placement. A hearing is not required if the requested or proposed change in placement does not involve a change in placement of a child placed in the child's home to a placement outside the child's home, written waivers of objection to the proposed change in placement are signed by all persons entitled to receive notice under this paragraph, other than a court-appointed special advocate, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the court shall notify the child, the parent, guardian, and legal custodian of the child, any foster parent or other physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special advocate, all parties who are bound by the dispositional order, and, if the child is an Indian child, the Indian child's Indian custodian and tribe. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem. If the change in placement involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child by the unborn child's guardian ad litem, and all parties who are bound by the dispositional order, at least 3 days prior to the hearing. A copy of the request or proposal for the change in placement shall be attached to the notice. Subject to par. (bm), if all of the parties consent, the court may proceed immediately with the hearing.

SECTION 93. 48.357 (2m) (bm) of the statutes is created to read:

48.357 (2m) (bm) If the child is an Indian child, and if the proposed change in placement would change the placement of the Indian child from a placement in the home of his or her parent or Indian custodian to a placement outside that home, notice under par. (b) to the Indian child's parent, Indian custodian, and tribe shall be pro-

vided in the manner specified in s. 48.028 (4) (a). Notwithstanding par. (b), no hearing on the request or proposal may be held until at least 10 days after receipt of the notice by the Indian child's parent, Indian custodian, and tribe or, if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 94. 48.357 (2m) (c) of the statutes is renumbered 48.357 (2m) (c) 1. and amended to read:

48.357 (2m) (c) 1. If the court changes the child's placement from a placement in the child's home to a placement outside the child's home, the change in placement order shall contain the findings specified in under sub. (2v) (a) 1., the applicable order specified in under sub. (2v) (a) 1m., the applicable statement specified in under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination specified in under sub. (2v) (a) 3. If the court changes the placement of an Indian child from a placement in the home of his or her parent or Indian custodian to a placement outside that home, the change in placement order shall, in addition, contain the findings under sub. (2v) (a) 4. and comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

2. If the court changes the placement of an Indian child from a placement outside the home of his or her parent or Indian custodian to another placement outside that home, the change in placement order shall, in addition, comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 95. 48.357 (2v) (a) 4. of the statutes is created to read:

48.357 (2v) (a) 4. If the change in placement order changes an Indian child's placement from a placement in the home of his or her parent or Indian custodian to a placement outside that home, a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1. and a find-

ing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. The findings under this subdivision shall be in addition to the findings under subd. 1., except that for the sole purpose of determining whether the cost of providing care for an Indian child is eligible for reimbursement under [42 USC 670 to 679b](#), the findings under this subdivision and the findings under subd. 1. shall be considered to be the same findings. The findings under this subdivision are not required if they were made in a previous order in the proceeding unless a change in circumstances warrants new findings.

SECTION 96. 48.357 (2v) (c) 1. of the statutes is renumbered 48.357 (2v) (c) and amended to read:

48.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the court shall hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the child. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 97. 48.357 (2v) (c) 2. of the statutes, as affected by [2009 Wisconsin Act 28](#), is repealed.

SECTION 98. 48.357 (2v) (c) 3. of the statutes, as affected by [2009 Wisconsin Act 28](#), is repealed.

SECTION 99. 48.363 (1) (a) of the statutes is amended to read:

48.363 (1) (a) A child, the child's parent, guardian ~~or~~, legal custodian, or Indian custodian, an expectant mother, an unborn child by the unborn child's guardian ad litem, any person or agency bound by a dispositional order, or the district attorney or corporation counsel in the county in which the dispositional order was entered may request a revision in the order that does not involve a change in placement, including a revision with respect to the amount of child support to be paid by a parent, ~~or the~~. The court may on its own motion also propose such a revision. The request or court proposal shall set forth in detail the nature of the proposed revision and what new information is available that affects the advisability of the court's disposition. The request or court proposal shall be submitted to the court. The court shall hold a hearing on the matter prior to any revision of the dispositional order if the request or court proposal indicates that new information is available which affects the advisability of the court's dispositional order, unless written waivers of objections to the revision are signed by all parties entitled to receive notice and the court approves.

SECTION 100. 48.363 (1) (b) of the statutes is amended to read:

48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court shall notify the child, the child's parent, guardian ~~and~~, legal custodian, and Indian

custodian, all parties bound by the dispositional order, the child's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or corporation counsel in the county in which the dispositional order was entered, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's tribe. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem; ~~or, If the proceeding involves an adult expectant mother of an unborn child under s. 48.133, the court~~ shall notify the adult expectant mother, the unborn child through the unborn child's guardian ad litem, all parties bound by the dispositional order, and the district attorney or corporation counsel in the county in which the dispositional order was entered, at least 3 days prior to the hearing. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order.

SECTION 101. 48.363 (1) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court shall notify the child, the child's parent, guardian, legal custodian, and Indian custodian, all parties bound by the dispositional order, the child's foster parent or other physical custodian described in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or corporation counsel in the county in which the dispositional order was entered, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's tribe. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem. If the proceeding involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child through the unborn child's guardian ad litem, all parties bound by the dispositional order, and the district attorney or corporation counsel in the county in which the dispositional order was entered, at least 3 days prior to the hearing. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order.

SECTION 102. 48.365 (1m) of the statutes is amended to read:

48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian, expectant mother, unborn child by the unborn child's guardian ad litem, any person or agency bound by the dispositional order, the district attorney or corporation counsel in the county in which the

dispositional order was entered, or the court on its own motion, may request an extension of an order under s. 48.355 including an order under s. 48.355 that was entered before the child was born. The request shall be submitted to the court ~~which that~~ entered the order. No An order under s. 48.355 may be extended except only as provided in this section.

SECTION 103. 48.365 (2) of the statutes is amended to read:

48.365 (2) No order may be extended without a hearing. The court shall ~~notify~~ provide notice of the time and place of the hearing to the child, the child's parent, guardian ~~and~~, legal custodian, and Indian custodian, all the parties present at the original hearing, the child's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or corporation counsel in the county in which the dispositional order was entered and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's tribe. If the child is an expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem; ~~or, If the extension hearing involves an adult expectant mother of an unborn child under s. 48.133, the court~~ shall notify the adult expectant mother, the unborn child through the unborn child's guardian ad litem, all the parties present at the original hearing, and the district attorney or corporation counsel in the county in which the dispositional order was entered, of the time and place of the hearing.

SECTION 104. 48.365 (2) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.365 (2) No order may be extended without a hearing. The court shall provide notice of the time and place of the hearing to the child, the child's parent, guardian, legal custodian, and Indian custodian, all the parties present at the original hearing, the child's foster parent or other physical custodian described in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or corporation counsel in the county in which the dispositional order was entered and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's tribe. If the child is an expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem. If the extension hearing involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child through the unborn child's guardian ad litem, all the parties present at the original hearing, and the district attorney or corporation counsel in the county in which the dispositional order was entered, of the time and place of the hearing.

SECTION 105. 48.365 (2g) (b) 4. of the statutes is created to read:

48.365 (2g) (b) 4. If the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, specific information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

SECTION 106. 48.365 (2m) (a) 1. of the statutes is amended to read:

48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of extension. If the child is placed outside of his or her home, the person or agency primarily responsible for providing services to the child shall present as evidence specific information showing that the person or agency has made reasonable efforts to achieve the goal of the child's permanency plan, unless return of the child to the home is the goal of the permanency plan and any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies. If an Indian child is placed outside the home of his or her parent or Indian custodian, the person or agency primarily responsible for providing services to the Indian child shall also present as evidence specific information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

1m. The judge shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the child to achieve the goal of the child's permanency plan, unless return of the child to the home is the goal of the permanency plan and the judge finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies. If the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the findings of fact shall also include a finding that active efforts under s. 48.028 (4) (d) 2. were made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. An order shall be issued under s. 48.355.

SECTION 107. 48.365 (2m) (a) 3. of the statutes is amended to read:

48.365 (2m) (a) 3. The judge shall make the findings specified in under subd. 1. 1m. relating to reasonable efforts to achieve the goal of the child's permanency plan and the findings specified in under subd. 2. on a case-by-case basis based on circumstances specific to the child and shall document or reference the specific information on which those findings are based in the order issued under s. 48.355. An order that merely references subd. 1. 1m. or 2. without documenting or referencing that specific information in the order or an amended order that retroactively corrects an earlier order that does not

comply with this subdivision is not sufficient to comply with this subdivision.

SECTION 108. 48.365 (2m) (ad) 1. of the statutes is renumbered 48.365 (2m) (ad) and amended to read:

48.365 (2m) (ad) If the judge finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge shall hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the child. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 109. 48.365 (2m) (ad) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 110. 48.365 (2m) (ag) of the statutes is amended to read:

48.365 (2m) (ag) The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under ~~par. (ad) 2. or sub. (2)~~ an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of extension. A foster parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~ who receives notice of a hearing under ~~par. (ad) 2. or sub. (2)~~ and an opportunity to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and having the opportunity to be heard.

SECTION 111. 48.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.365 (2m) (ag) The court shall give a foster parent or other physical custodian described in s. 48.62 (2) who is notified of a hearing under sub. (2) an opportunity to be heard at the hearing by permitting the foster parent or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of extension. A foster parent or other physical custodian who receives notice of a hearing under sub. (2) and an opportunity to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and having the opportunity to be heard.

SECTION 112. 48.38 (4) (i) of the statutes is created to read:

48.38 (4) (i) If the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, all of the following:

1. The name, address, and telephone number of the Indian child's Indian custodian and tribe.

2. A description of the remedial services and rehabilitation programs offered under s. 48.028 (4) (d) 2. in an effort to prevent the breakup of the Indian child's family.

3. A statement as to whether the Indian child's placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the placement is not in compliance with that order, a statement as to whether there is good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 113. 48.38 (4m) of the statutes is created to read:

48.38 (4m) PERMANENCY PLAN DETERMINATION HEARING. (a) If in a proceeding under s. 48.21, 48.32, 48.355, 48.357, or 48.365 the court finds that any of the circumstances under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the court shall hold a hearing within 30 days after the date of that finding to determine the permanency plan for the child. If a hearing is held under this paragraph, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the hearing.

(b) At least 10 days before the hearing the court shall notify the child, any parent, guardian, and legal custodian of the child, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the child and, if the child is an Indian child, the Indian child's Indian custodian and tribe of the time, place, and purpose of the hearing.

(c) The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b) a right to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issues to be determined at the hearing. The foster parent, treatment foster parent, or other physical custodian does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and right to be heard.

SECTION 114. 48.38 (4m) (b) and (c) of the statutes, as created by 2009 Wisconsin Act (this act), are amended to read:

48.38 (4m) (b) At least 10 days before the hearing the court shall notify the child, any parent, guardian, and legal custodian of the child, any foster parent, ~~treatment foster parent~~, or other physical custodian described in s. 48.62 (2) of the child and, if the child is an Indian child, the Indian child's Indian custodian and tribe of the time, place, and purpose of the hearing.

(c) The court shall give a foster parent, ~~treatment foster parent~~, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b) a right to be heard at the hearing by permitting the foster parent, ~~treatment foster parent~~, or other physical custodian to

make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issues to be determined at the hearing. The foster parent, ~~treatment foster parent~~, or other physical custodian does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and right to be heard.

SECTION 115. 48.38 (5) (b) of the statutes is amended to read:

48.38 (5) (b) The court or the agency shall notify the ~~parents of the child~~, the child, if he or she is 12 years of age or older, ~~and; the child's parent, guardian, and legal custodian~~; the child's foster parent, the child's treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; ~~and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe~~ of the date, time, and place of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review by submitting written comments not less than 10 working days before the review or by participating at the review. The court or agency shall notify the person representing the interests of the public, the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate of the date of the review, of the issues to be determined as part of the review, and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the child's case record.

SECTION 116. 48.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.38 (5) (b) The court or the agency shall notify the child, if he or she is 12 years of age or older; the child's parent, guardian, and legal custodian; the child's foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe of the date, time, and place of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review by submitting written comments not less than 10 working days before the review or by participating at the review. The court or agency shall notify the person representing the interests of the public, the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate of the date of the review, of the issues to be determined as part of the review, and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be pro-

vided in writing not less than 30 days before the review and copies of the notices shall be filed in the child's case record.

SECTION 117. 48.38 (5) (c) 8. of the statutes is created to read:

48.38 (5) (c) 8. If the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, whether active efforts under s. 48.028 (4) (d) 2. were made to prevent the breakup of the Indian child's family, whether those efforts have proved unsuccessful, whether the Indian child's placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), and, if the placement is not in compliance with that order, whether there is good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 118. 48.38 (5) (d) of the statutes is amended to read:

48.38 (5) (d) Notwithstanding s. 48.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a review by a review panel, provide to each person appointed to the review panel, the child's parent, guardian, and legal custodian, the person representing the interests of the public, the child's counsel, the child's guardian ad litem ~~and~~, the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe a copy of the permanency plan and any written comments submitted under par. (b). Notwithstanding s. 48.78 (2) (a), a person appointed to a review panel, the person representing the interests of the public, the child's counsel, the child's guardian ad litem ~~and~~, the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe may have access to any other records concerning the child for the purpose of participating in the review. A person permitted access to a child's records under this paragraph may not disclose any information from the records to any other person.

SECTION 119. 48.38 (5) (e) of the statutes is amended to read:

48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; ~~the child or the child's counsel or guardian ad litem; the person representing the interests of the public; the child's parent or, guardian, or legal custodian; the child's court-appointed special advocate and; the child's foster parent, the child's treatment foster parent, or the operator of the facility where the child is living; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's~~ Indian custodian and tribe.

SECTION 120. 48.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; the child or the child's counsel or guardian ad litem; the person representing the interests of the public; the child's parent, guardian, or legal custodian; the child's court-appointed special advocate; the child's foster parent or the operator of the facility where the child is living; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe.

SECTION 121. 48.38 (5m) (b) of the statutes is amended to read:

48.38 (5m) (b) Not less than 30 days before the date of the hearing, the court shall notify the child; the child's parent, guardian, and legal custodian; the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate; the agency that prepared the permanency plan; ~~and the person representing the interests of the public; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe~~ of the date, time, and place of the hearing.

SECTION 122. 48.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.38 (5m) (b) Not less than 30 days before the date of the hearing, the court shall notify the child; the child's parent, guardian, and legal custodian; the child's foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe of the date, time, and place of the hearing.

SECTION 123. 48.38 (5m) (d) of the statutes is amended to read:

48.38 (5m) (d) At least 5 days before the date of the hearing the agency that prepared the permanency plan shall provide a copy of the permanency plan and any written comments submitted under par. (c) to the court, to the child's parent, guardian, and legal custodian, to the person representing the interests of the public, to the child's counsel or guardian ad litem, ~~and to the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent~~

or Indian custodian, to the Indian child's Indian custodian and tribe. Notwithstanding s. 48.78 (2) (a), the person representing the interests of the public, the child's counsel or guardian ad litem, and the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside of the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe may have access to any other records concerning the child for the purpose of participating in the review. A person permitted access to a child's records under this paragraph may not disclose any information from the records to any other person.

SECTION 124. 48.38 (5m) (e) of the statutes is amended to read:

48.38 (5m) (e) After the hearing, the court shall make written findings of fact and conclusions of law relating to the determinations under sub. (5) (c) and shall provide a copy of those findings of fact and conclusions of law to the child; the child's parent, guardian, and legal custodian; the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; the child's court-appointed special advocate; the agency that prepared the permanency plan; and the person representing the interests of the public; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe. The court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to the child and shall document or reference the specific information on which those findings are based in the findings of fact and conclusions of law prepared under this paragraph. Findings of fact and conclusions of law that merely reference sub. (5) (c) 7. without documenting or referencing that specific information in the findings of fact and conclusions of law or amended findings of fact and conclusions of law that retroactively correct earlier findings of fact and conclusions of law that do not comply with this paragraph are not sufficient to comply with this paragraph.

SECTION 125. 48.38 (5m) (e) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.38 (5m) (e) After the hearing, the court shall make written findings of fact and conclusions of law relating to the determinations under sub. (5) (c) and shall provide a copy of those findings of fact and conclusions of law to the child; the child's parent, guardian, and legal custodian; the child's foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; the child's court-appointed special advocate; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe. The court shall make the find-

ings specified in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to the child and shall document or reference the specific information on which those findings are based in the findings of fact and conclusions of law prepared under this paragraph. Findings of fact and conclusions of law that merely reference sub. (5) (c) 7. without documenting or referencing that specific information in the findings of fact and conclusions of law or amended findings of fact and conclusions of law that retroactively correct earlier findings of fact and conclusions of law that do not comply with this paragraph are not sufficient to comply with this paragraph.

SECTION 126. 48.41 (2) (e) of the statutes is created to read:

48.41 (2) (e) In the case of an Indian child, the consent is given as provided in s. 48.028 (5) (b).

SECTION 127. 48.415 (intro.) of the statutes is amended to read:

48.415 Grounds for involuntary termination of parental rights. (intro.) At the fact-finding hearing the court or jury ~~may make a finding that shall determine whether~~ grounds exist for the termination of parental rights. If the child is an Indian child, the court or jury shall also determine at the fact-finding hearing whether continued custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child under s. 48.028 (4) (e) 1. and whether active efforts under s. 48.028 (4) (e) 2. have been made to prevent the breakup of the Indian child's family and whether those efforts have proved unsuccessful, unless partial summary judgment on the grounds for termination of parental rights is granted, in which case the court shall make those determinations at the dispositional hearing. Grounds for termination of parental rights shall be one of the following:

SECTION 128. 48.417 (2) (cm) of the statutes is created to read:

48.417 (2) (cm) In the case of an Indian child, the agency primarily responsible for providing services to the Indian child and the family under a court order, if required under s. 48.355 (2) (b) 6v. to make active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian child's family, has not provided to the Indian child's family, consistent with the child's permanency plan, the services necessary to prevent the breakup of the Indian child's family.

SECTION 129. 48.42 (1) (d) of the statutes is amended to read:

48.42 (1) (d) A statement of whether the child may be subject to the federal Indian ~~child welfare act~~ Child Welfare Act, 25 USC 1911 1901 to 1963, and, if the child may be subject to that act, the names of the child's Indian custodian, if any, and tribe, if known.

SECTION 130. 48.42 (1) (e) of the statutes is created to read:

48.42 (1) (e) If the petition is seeking the involuntary termination of parental rights to an Indian child, reliable and credible information showing that continued custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child under s. 48.028 (4) (e) 1. and reliable and credible information showing that active efforts under s. 48.028 (4) (e) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

SECTION 131. 48.42 (2) (c) of the statutes is amended to read:

48.42 (2) (c) The guardian, guardian ad litem ~~and, legal custodian, and Indian custodian~~ of the child.

SECTION 132. 48.42 (2g) (ag) of the statutes is created to read:

48.42 (2g) (ag) In the case of an involuntary termination of parental rights to a child whom the petitioner knows or has reason to know is an Indian child, the petitioner shall cause the summons and petition to be served on the Indian child's parent and Indian custodian in the manner specified in s. 48.028 (4) (a). In like manner, the petitioner shall also notify the Indian child's tribe of all hearings on the petition. The first notice to an Indian child's tribe shall be written, shall have a copy of the petition attached to it, and shall state the nature, location, date, and time of the initial hearing. No hearing may be held on the petition until at least 10 days after receipt of notice of the hearing by the Indian child's parent, Indian custodian, and tribe or, if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 133. 48.42 (4) (a) of the statutes is amended to read:

48.42 (4) (a) *Personal service.* Except as provided in this paragraph ~~and, par. (b), and sub. (2g) (ag),~~ a copy of the summons and petition shall be served personally upon the parties specified in sub. (2), if known, at least 7 days before the date of the hearing. Service of summons is not required if the party submits to the jurisdiction of the court. Service upon parties who are not natural persons and upon persons under a disability shall be as prescribed in s. 801.11.

SECTION 134. 48.422 (1) of the statutes is amended to read:

48.422 (1) The Except as provided in s. 48.42 (2g) (ag), the hearing on the petition to terminate parental rights shall be held within 30 days after the petition is filed. At the hearing on the petition to terminate parental rights the court shall determine whether any party wishes to contest the petition and inform the parties of their rights under sub. (4) and s. 48.423.

SECTION 135. 48.422 (2) of the statutes is amended to read:

48.422 (2) If Except as provided in s. 48.42 (2g) (ag), if the petition is contested the court shall set a date for a fact-finding hearing to be held within 45 days of after the hearing on the petition, unless all of the necessary parties agree to commence with the hearing on the merits immediately.

SECTION 136. 48.422 (6) (a) of the statutes is amended to read:

48.422 (6) (a) In the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803 and for whom paternity has not been established, or for whom a declaration of paternal interest has not been filed under s. 48.025 within 14 days after the date of birth of the child or, if s. 48.42 (1g) (b) applies, within 21 days after the date on which the notice under s. 48.42 (1g) (b) is mailed, the court shall hear testimony concerning the paternity of the child. Based on the testimony, the court shall determine whether all interested parties who are known have been notified under s. 48.42 (2) and (2g) (ag). If not, the court shall adjourn the hearing and order appropriate notice to be given.

SECTION 137. 48.422 (8) of the statutes is amended to read:

48.422 (8) If the petition for termination of parental rights is filed by an agency enumerated in s. 48.069 (1) or (2), the court shall order the agency to submit file a report to with the court as provided in s. 48.425 (1), except that, if the child is an Indian child, the court may order the agency or request the tribal child welfare department of the Indian child's tribe to file that report.

SECTION 138. 48.424 (1) of the statutes is renumbered 48.424 (1) (intro.) and amended to read:

48.424 (1) (intro.) The purpose of the fact-finding hearing is to determine ~~whether grounds exist for the termination of parental rights in those cases where the termination in cases in which the petition~~ was contested at the hearing on the petition under s. 48.422 all of the following:

(a) Whether grounds exist for the termination of parental rights.

SECTION 139. 48.424 (1) (b) of the statutes is created to read:

48.424 (1) (b) Whether the allegations specified in s. 48.42 (1) (e) have been proved in cases involving the involuntary termination of parental rights to an Indian child.

SECTION 140. 48.424 (2) (intro.) of the statutes is amended to read:

48.424 (2) (intro.) The fact-finding hearing shall be conducted according to the procedure specified in s. 48.31 except that as follows:

SECTION 141. 48.424 (2) (a) of the statutes is amended to read:

48.424 (2) (a) The court may exclude the child from the hearing; and,

SECTION 142. 48.424 (3) of the statutes is amended to read:

48.424 (3) If the facts are determined by a jury, the jury may only decide whether any grounds for the termination of parental rights have been ~~proven~~ proved and whether the allegations specified in s. 48.42 (1) (e) have been proved in cases involving the involuntary termination of parental rights to an Indian child. The court shall decide what disposition is in the best interest of the child.

SECTION 143. 48.424 (4) (intro.) of the statutes is amended to read:

48.424 (4) (intro.) If grounds for the termination of parental rights are found by the court or jury, the court shall find the parent unfit. A finding of unfitness shall not preclude a dismissal of a petition under s. 48.427 (2). The court shall then proceed immediately to hear evidence and motions related to the dispositions enumerated in s. 48.427. ~~The Except as provided in s. 48.42 (2g) (ag), the court may delay making the disposition and set a date for a dispositional hearing no later than 45 days after the fact-finding hearing if any of the following apply:~~

SECTION 144. 48.424 (4) (a) of the statutes is amended to read:

48.424 (4) (a) All parties to the proceeding agree; or,

SECTION 145. 48.424 (4) (b) of the statutes is amended to read:

48.424 (4) (b) The court has not yet received a report to the court on the history of the child as provided in s. 48.425 ~~from an agency enumerated in s. 48.069 (1) or (2) and the court now directs the agency to prepare this report to be considered~~ orders an agency enumerated in s. 48.069 (1) or (2) to file that report with the court, or, in the case of an Indian child, now orders that agency or requests the tribal child welfare department of the Indian child's tribe to file such a report, before the court makes the disposition on the petition.

SECTION 146. 48.424 (5) of the statutes is amended to read:

48.424 (5) If the court delays making a permanent disposition under sub. (4), it may transfer temporary custody of the child to an agency for placement of the child until the dispositional hearing. Placement of an Indian child under this subsection shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 147. 48.425 (1) (intro.) of the statutes is amended to read:

48.425 (1) (intro.) If the ~~petition for the termination of parental rights is filed by an agency, or if the court orders~~ an agency enumerated under s. 48.069 (1) or (2) to file a report under s. ~~48.422 (8) or~~ 48.424 (4) (b) or

requests the tribal child welfare department of an Indian child's tribe to file such a report, the agency or tribal child welfare department, if that department consents, shall file a report with the court which shall include:

SECTION 148. 48.425 (1) (cm) of the statutes is created to read:

48.425 (1) (cm) If the petition is seeking the involuntary termination of parental rights to an Indian child, specific information showing that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (e) 1. and, if the Indian child has previously been adjudged to be in need of protection or services, specific information showing that active efforts under s. 48.028 (4) (e) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

SECTION 149. 48.427 (5) of the statutes is created to read:

48.427 (5) In placing an Indian child in a preadoptive placement following a transfer of guardianship and custody under sub. (3m) or (3p) or in placing an Indian child in sustaining care under sub. (4), the court or an agency specified in sub. (3m) (a) 1. to 4. or (am) shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court or agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 150. 48.427 (6) (b) 4. of the statutes is created to read:

48.427 (6) (b) 4. If the court knows or has reason to know that the child is an Indian child, information relating to the child's membership or eligibility for membership in an Indian tribe.

SECTION 151. 48.428 (2) (a) of the statutes is amended to read:

48.428 (2) (a) Except as provided in par. (b), when a court places a child in sustaining care after an order under s. 48.427 (4), the court shall transfer legal custody of the child to the county department, the department, in a county having a population of 500,000 or more, or a licensed child welfare agency, transfer guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), and place the child in the home of a licensed foster parent, licensed treatment foster parent, or kinship care relative with whom the child has resided for 6 months or longer. In placing an Indian child in sustaining care, the court shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order. Pursuant to such a placement, this ~~that~~ licensed foster parent, licensed treatment foster parent, or kinship care relative shall be a sustaining parent with the powers and duties specified in sub. (3).

SECTION 152. 48.428 (2) (a) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.428 (2) (a) Except as provided in par. (b), when a court places a child in sustaining care after an order under s. 48.427 (4), the court shall transfer legal custody of the child to the county department, the department in a county having a population of 500,000 or more, or a licensed child welfare agency, transfer guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), and place the child in the home of a licensed foster parent or kinship care relative with whom the child has resided for 6 months or longer. In placing an Indian child in sustaining care, the court shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order. Pursuant to the placement, that licensed foster parent or kinship care relative shall be a sustaining parent with the powers and duties specified in sub. (3).

SECTION 153. 48.428 (2) (b) of the statutes is amended to read:

48.428 (2) (b) When a court places a child in sustaining care after an order under s. 48.427 (4) with a person who has been appointed as the guardian of the child under s. 48.977 (2), the court may transfer legal custody of the child to the county department, the department, in a county having a population of 500,000 or more, or a licensed child welfare agency, transfer guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), and place the child in the home of a licensed foster parent, licensed treatment foster parent, or kinship care relative with whom the child has resided for 6 months or longer. In placing an Indian child in sustaining care, the court shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order. Pursuant to such a placement, that licensed foster parent, licensed treatment foster parent, or kinship care relative shall be a sustaining parent with the powers and duties specified in sub. (3). If the court transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), the court shall terminate the guardianship under s. 48.977.

SECTION 154. 48.428 (2) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.428 (2) (b) When a court places a child in sustaining care after an order under s. 48.427 (4) with a person who has been appointed as the guardian of the child under s. 48.977 (2), the court may transfer legal custody of the child to the county department, the department in a county having a population of 500,000 or more, or a licensed child welfare agency, transfer guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4.

or (am), and place the child in the home of a licensed foster parent or kinship care relative with whom the child has resided for 6 months or longer. In placing an Indian child in sustaining care, the court shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order. Pursuant to the placement, that licensed foster parent or kinship care relative shall be a sustaining parent with the powers and duties specified in sub. (3). If the court transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), the court shall terminate the guardianship under s. 48.977.

SECTION 155. 48.43 (5) (bm) of the statutes is created to read:

48.43 (5) (bm) If the order under sub. (1) involuntarily terminated parental rights to an Indian child, the court shall also provide notice of the hearing under par. (b) to the Indian child's tribe in the manner specified in s. 48.028 (4) (a). No hearing may be held under par. (b) until at least 10 days after receipt of notice of the hearing by the Indian child's tribe or, if the identity or location of the Indian child's tribe cannot be determined, until at least 15 days after receipt of notice of the hearing by the U.S. secretary of the interior. On request of the Indian child's tribe, the court shall grant a continuance of up to 20 additional days to enable the tribe to prepare for the hearing.

SECTION 156. 48.43 (5) (c) of the statutes is amended to read:

48.43 (5) (c) Following the hearing, the court shall make all of the determinations specified under s. 48.38 (5) (c), except the determinations relating to the child's parents. The court may amend the order under sub. (1) to transfer the child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1. to 4. or (am) that consents to the transfer, if the court determines that the transfer is in the child's best interest. If an Indian child's guardianship and custody are transferred under this paragraph, the agency consenting to the transfer shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) in placing the child, unless the agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order. If an order is amended, the agency that prepared the permanency plan shall revise the plan to conform to the order and shall file a copy of the revised plan with the court. Each plan filed under this paragraph shall be made a part of the court order.

SECTION 157. 48.43 (5m) of the statutes is amended to read:

48.43 (5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, and to the child's foster parent, the child's treatment foster parent, or the operator of

the facility in which the child is living, and, if the order under sub. (1) involuntarily terminated parental rights to an Indian child, to the Indian child's tribe.

SECTION 158. 48.43 (5m) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.43 (5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, to the child's foster parent or the operator of the facility in which the child is living, and, if the order under sub. (1) involuntarily terminated parental rights to an Indian child, to the Indian child's tribe.

SECTION 159. 48.43 (6) (a) of the statutes is amended to read:

48.43 (6) (a) Judgments under this subchapter terminating parental rights are final and are appealable under s. 808.03 (1) according to the procedure specified in s. 809.107 and are subject to a petition for rehearing or a motion for relief only as provided in s. 48.46 (1m) and (2) and, in the case of an Indian child, s. 48.028 (5) (c) and (6). The attorney representing a person during a proceeding under this subchapter shall continue representation of that person by filing a notice of intent to appeal under s. 809.107 (2), unless the attorney has been previously discharged during the proceeding by the person or by the trial court.

SECTION 160. 48.43 (6) (c) of the statutes is amended to read:

48.43 (6) (c) In Except as provided in s. 48.028 (5) (c) and (6), in no event may any person, for any reason, collaterally attack a judgment terminating parental rights more than one year after the date on which the time period for filing an appeal from the judgment has expired, or more than one year after the date on which all appeals from the judgment, if any were filed, have been decided, whichever is later.

SECTION 161. 48.46 (2) of the statutes is amended to read:

48.46 (2) A parent who has consented to the termination of his or her parental rights under s. 48.41 or who did not contest the petition initiating the proceeding in which his or her parental rights were terminated may move the court for relief from the judgment on any of the grounds specified in s. 806.07 (1) (a), (b), (c), (d) or (f). Any such motion shall be filed within 30 days after the entry of the judgment or order terminating parental rights, unless the parent files a timely notice of intent to pursue relief from the judgment under s. 808.04 (7m), in which case the motion shall be filed within the time permitted by s. 809.107 (5). A motion under this subsection does not affect the finality or suspend the operation of the judgment or order terminating parental rights. A parent who has consented to the termination of his or her parental rights to an Indian child under s. 48.41 (2) (e) may also

move for relief from the judgment under s. 48.028 (5) (c) or (6). Motions under this subsection or s. 48.028 (5) (c) or (6) and appeals to the court of appeals shall be the exclusive remedies for such a parent to obtain a new hearing in a termination of parental rights proceeding.

SECTION 162. 48.48 (3m) (intro.) of the statutes is amended to read:

48.48 (3m) (intro.) To accept appointment by ~~an American-Indian~~ a tribal court in this state as guardian of a child for the purpose of making an adoptive placement for the child if all of the following conditions exist:

SECTION 163. 48.48 (8m) of the statutes is amended to read:

48.48 (8m) To enter into agreements with ~~American Indian~~ tribes in this state to implement the ~~Indian-child welfare act~~ federal Indian Child Welfare Act, 25 USC 1911 1901 to 1963.

SECTION 164. 48.485 of the statutes is amended to read:

48.485 Transfer of tribal Indian children to department for adoption. If the department accepts guardianship or legal custody or both from ~~an American Indian~~ a tribal court under s. 48.48 (3m), the department shall seek a permanent adoptive placement for the child. If a permanent adoptive placement is not in progress within 2 years after entry of the termination of parental rights order by the tribal court, the department may petition the tribal court to transfer legal custody or guardianship of the Indian child back to the Indian tribe, except that the department may not petition the tribal court to transfer back to ~~a- an Indian~~ tribe legal custody or guardianship of ~~a- an Indian~~ child who was initially taken into custody under s. 48.195 (1).

SECTION 165. 48.487 (2) of the statutes is amended to read:

48.487 (2) ADOLESCENT SELF-SUFFICIENCY SERVICES. From the allocation under sub. (1m), the department may provide a grant annually in the amount of \$85,000 to the elected governing body of ~~a federally-recognized American~~ an Indian tribe or band to provide services for adolescent parents which shall emphasize high school graduation and vocational preparation, training, and experience and may be structured so as to strengthen the adolescent parent's capacity to fulfill parental responsibilities by developing social skills and increasing parenting skills. ~~The Indian tribe or band~~ seeking to receive a grant to provide these services shall develop a proposed service plan that is approved by the department.

SECTION 166. 48.487 (3) (b) of the statutes is amended to read:

48.487 (3) (b) From the allocation under sub. (1m), the department may provide a grant annually in the amount of \$65,000 to the elected governing body of ~~a federally-recognized American~~ an Indian tribe or band to provide to high-risk adolescents pregnancy and parent-hood prevention services which shall be structured so as

to increase development of decision-making and communications skills, promote graduation from high school, and expand career and other options and which may address needs of adolescents with respect to pregnancy prevention.

SECTION 167. 48.487 (4m) (b) (intro.) of the statutes is amended to read:

48.487 (4m) (b) (intro.) From the allocation under sub. (1m), the department may provide a grant annually in the amount of \$60,000 to the elected governing body of ~~a federally recognized American~~ an Indian tribe ~~or band~~ for the provision of information to members of the Indian tribe ~~or band~~ in order to increase community knowledge about problems of adolescents and information to and activities for adolescents, particularly female adolescents, in order to enable the adolescents to develop skills with respect to all of the following:

SECTION 168. 48.487 (4m) (c) of the statutes is amended to read:

48.487 (4m) (c) Each funded tribal project under par. (b) shall provide services in areas of the state as approved by the Indian tribe ~~or band~~ and the department. The department shall determine the boundaries of the regional areas prior to soliciting project grant applications.

SECTION 169. 48.487 (4m) (d) of the statutes is amended to read:

48.487 (4m) (d) Prior to making grants to applying Indian tribes ~~or bands~~ under par. (b), the department shall consider whether and how the applying Indian tribe ~~or band~~ proposes to coordinate its services with other public or private resources, programs, or activities in the region and the state.

SECTION 170. 48.563 (3) of the statutes is amended to read:

48.563 (3) TRIBAL CHILD CARE. For child care services under [42 USC 9858](#), the department shall distribute not more than \$412,800 in each fiscal year from the appropriation account under s. 20.437 (1) (b) to ~~federally recognized American Indian tribes or bands. A tribe or band.~~ An Indian tribe that receives funding under this subsection shall use that funding to provide child care for an eligible child, as defined in [42 USC 9858n](#) (4).

SECTION 171. 48.565 (intro.) of the statutes is amended to read:

48.565 Carry-over of children and family aids funds. (intro.) Funds allocated by the department under s. 48.569 (1) (d) but not spent or encumbered by counties, governing bodies of ~~federally recognized American~~ Indian tribes, or private nonprofit organizations by December 31 of each year and funds recovered under s. 48.569 (2) (b) and deposited into the appropriation account under s. 20.437 (1) (b) lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year under s. 20.437 (1) (b) or as follows:

SECTION 172. 48.57 (3p) (h) 2. of the statutes is amended to read:

48.57 (3p) (h) 2. The request for review shall be filed with the director of the county department or, in a county having a population of 500,000 or more, with the person designated by the secretary to receive requests for review filed under this subdivision. If the governing body of ~~a federally recognized American~~ an Indian tribe ~~or band~~ has entered into an agreement under sub. (3t) to administer the program under this subsection and sub. (3m), the request for review shall be filed with the person designated by that governing body to receive requests for review filed under this subdivision.

SECTION 173. 48.57 (3p) (h) 3. (intro.) of the statutes is amended to read:

48.57 (3p) (h) 3. (intro.) The director of the county department, the person designated by the governing body of ~~a federally recognized American~~ an Indian tribe ~~or band~~ or, in a county having a population of 500,000 or more, the person designated by the secretary shall review the denial of payments or the prohibition on employment or being an adult resident to determine if the conviction record on which the denial or prohibition is based includes any arrests, convictions, or penalties that are likely to adversely affect the child or the ability of the kinship care relative to care for the child. In reviewing the denial or prohibition, the director of the county department, the person designated by the governing body of the ~~federally recognized American~~ Indian tribe ~~or band~~ or the person designated by the secretary shall consider all of the following factors:

SECTION 174. 48.57 (3p) (h) 4. of the statutes is amended to read:

48.57 (3p) (h) 4. If the director of the county department, the person designated by the governing body of the ~~federally recognized American~~ Indian tribe ~~or band~~ or, in a county having a population of 500,000 or more, the person designated by the secretary determines that the conviction record on which the denial of payments or the prohibition on employment or being an adult resident is based does not include any arrests, convictions, or penalties that are likely to adversely affect the child or the ability of the kinship care relative to care for the child, the director of the county department, the person designated by the governing body of the ~~federally recognized American~~ Indian tribe ~~or band~~, or the person designated by the secretary may approve the making of payments under sub. (3m) or may permit a person receiving payments under sub. (3m) to employ a person in a position in which that person would have regular contact with the child for whom payments are being made or permit a person to be an adult resident.

SECTION 175. 48.57 (3t) of the statutes is amended to read:

48.57 (3t) Notwithstanding subs. (3m), (3n), and (3p), the department may enter into an agreement with the governing body of ~~a federally recognized American~~ an Indian tribe or band to allow that governing body to administer the program under subs. (3m), (3n), and (3p) within the boundaries of ~~that the~~ the reservation of the Indian tribe. Any agreement under this subsection relating to the administration of the program under sub. (3m) shall specify the person with whom a request for review under sub. (3p) (h) 2. may be filed and the person who has been designated by the governing body to conduct the review under sub. (3p) (h) 3. and make the determination under sub. (3p) (h) 4. Any agreement under this subsection relating to the administration of the program under sub. (3n) shall specify who is to make any determination as to whether a conviction record is satisfactory.

SECTION 176. 48.63 (1) of the statutes is amended to read:

48.63 (1) Acting under court order or voluntary agreement, the child's parent ~~or~~ guardian, or Indian custodian, or the department, the department of corrections, a county department, or a child welfare agency licensed to place children in foster homes, treatment foster homes, or group homes may place a child or negotiate or act as intermediary for the placement of a child in a foster home, treatment foster home, or group home. Voluntary agreements under this subsection may not be used for placements in facilities other than foster, treatment foster, or group homes and may not be extended. A foster home or treatment foster home placement under a voluntary agreement may not exceed 180 days from the date on which the child was removed from the home under the voluntary agreement. A group home placement under a voluntary agreement may not exceed 15 days from the date on which the child was removed from the home under the voluntary agreement, except as provided in sub. (5). These ~~time~~ periods do not apply to placements made under s. 48.345, 938.183, 938.34, or 938.345. Voluntary agreements may be made only under this subsection and sub. (5) (b) and shall be in writing and shall specifically state that the agreement may be terminated at any time by the parent ~~or~~ guardian, or Indian custodian or by the child if the child's consent to the agreement is required. In the case of an Indian child who is placed under this subsection by the voluntary agreement of the Indian child's parent or Indian custodian, the voluntary consent of the parent or Indian custodian to the placement shall be given as provided in s. 48.028 (5) (a). The child's consent to the agreement is required whenever the child is 12 years of age or older. If a county department, the department, or the department of corrections places a child or negotiates or acts as intermediary for the placement of a child under this subsection, the voluntary agreement shall also specifically state that the county department, department, or department of corrections has placement and care responsibility for the child as

required under 42 USC 672 (a) (2) and has primary responsibility for providing services to the child.

SECTION 177. 48.63 (1) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.63 (1) Acting under court order or voluntary agreement, the child's parent, guardian, or Indian custodian, or the department, the department of corrections, a county department, or a child welfare agency licensed to place children in foster homes or group homes may place a child or negotiate or act as intermediary for the placement of a child in a foster home or group home. Voluntary agreements under this subsection may not be used for placements in facilities other than foster homes or group homes and may not be extended. A foster home placement under a voluntary agreement may not exceed 180 days from the date on which the child was removed from the home under the voluntary agreement. A group home placement under a voluntary agreement may not exceed 15 days from the date on which the child was removed from the home under the voluntary agreement, except as provided in sub. (5). These periods do not apply to placements made under s. 48.345, 938.183, 938.34, or 938.345. Voluntary agreements may be made only under this subsection and sub. (5) (b) and shall be in writing and shall specifically state that the agreement may be terminated at any time by the parent, guardian, or Indian custodian or by the child if the child's consent to the agreement is required. In the case of an Indian child who is placed under this subsection by the voluntary agreement of the Indian child's parent or Indian custodian, the voluntary consent of the parent or Indian custodian to the placement shall be given as provided in s. 48.028 (5) (a). The child's consent to the agreement is required whenever the child is 12 years of age or older. If a county department, the department, or the department of corrections places a child or negotiates or acts as intermediary for the placement of a child under this subsection, the voluntary agreement shall also specifically state that the county department, department, or department of corrections has placement and care responsibility for the child as required under 42 USC 672 (a) (2) and has primary responsibility for providing services to the child.

SECTION 178. 48.63 (3) (b) 1. of the statutes is amended to read:

48.63 (3) (b) 1. At the request of a parent having custody of a child and the proposed adoptive parent or parents of the child, the department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under s. 48.60 may place the child in the home of the proposed adoptive parent or parents prior to termination of parental rights to the child as provided in subd. 2. or 3., whichever is applicable, and subd. 4. In placing an Indian child for adoption under this subdivision, the department, county department, or child welfare agency shall comply with the order of placement prefer-

ence under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the department, county department, or child welfare agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 179. 48.63 (4) of the statutes is amended to read:

48.63 (4) A permanency plan under s. 48.38 is required for each child placed in a foster home or treatment foster home under sub. (1). If the child is living in a foster home or treatment foster home under a voluntary agreement, the agency that negotiated or acted as intermediary for the placement shall prepare the permanency plan within 60 days after the date on which the child was removed from his or her home under the voluntary agreement. A copy of each plan shall be provided to the child if he or she is 12 years of age or over and to the child's parent ~~or~~, guardian, or Indian custodian. If the agency that arranged the voluntary placement intends to seek a court order to place the child outside of his or her home at the expiration of the voluntary placement, the agency shall prepare a revised permanency plan and file that revised plan with the court prior to the date of the hearing on the proposed placement.

SECTION 180. 48.63 (4) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.63 (4) A permanency plan under s. 48.38 is required for each child placed in a foster home under sub. (1). If the child is living in a foster home under a voluntary agreement, the agency that negotiated or acted as intermediary for the placement shall prepare the permanency plan within 60 days after the date on which the child was removed from his or her home under the voluntary agreement. A copy of each plan shall be provided to the child if he or she is 12 years of age or over and to the child's parent, guardian, or Indian custodian. If the agency that arranged the voluntary placement intends to seek a court order to place the child outside of his or her home at the expiration of the voluntary placement, the agency shall prepare a revised permanency plan and file that revised plan with the court prior to the date of the hearing on the proposed placement.

SECTION 181. 48.63 (5) (b) of the statutes is amended to read:

48.63 (5) (b) If a child who is at least 14 years of age, who is a custodial parent, as defined in s. 49.141 (1) (b), or an expectant mother, and who is in need of a safe and structured living arrangement and the parent ~~or~~, guardian, or Indian custodian of the child consent, a child welfare agency licensed to place children in group homes may place the child or arrange the placement of the child in a group home described in s. 48.625 (1m). Before placing a child or arranging the placement of a child under this paragraph, the child welfare agency shall report any suspected abuse or neglect of the child as required under s. 48.981 (2). A voluntary agreement to place a child in

a group home described in s. 48.625 (1m) may be made only under this paragraph, shall be in writing, and shall specifically state that the agreement may be terminated at any time by the parent, guardian, Indian custodian, or child. In the case of an Indian child who is placed in a group home under this paragraph by the voluntary agreement of the Indian child's parent or Indian custodian, the voluntary consent of the parent or Indian custodian to the placement shall be given as provided in s. 48.028 (5) (a). An initial placement under this paragraph may not exceed 180 days from the date on which the child was removed from the home under the voluntary agreement, but may be extended as provided in par. (d) 3. to 6. An initial placement under this paragraph of a child who is under 16 years of age on the date of the initial placement may be extended as provided in par. (d) 3. to 6. no more than once.

SECTION 182. 48.63 (5) (c) of the statutes is amended to read:

48.63 (5) (c) A permanency plan under s. 48.38 is required for each child placed in a group home under par. (b) and for any child of that child who is residing with that child. The agency that placed the child or that arranged the placement of the child shall prepare the plan within 60 days after the date on which the child was removed from his or her home under the voluntary agreement and shall provide a copy of the plan to the child and the child's parent ~~or~~, guardian, or Indian custodian.

SECTION 183. 48.63 (5) (d) 3. of the statutes is amended to read:

48.63 (5) (d) 3. If the agency that has placed a child under par. (b) or that has arranged the placement of the child wishes to extend the placement of the child, the agency shall prepare a revised permanency plan for that child and for any child of that child who is residing with that child and submit the revised permanency plan or plans, together with a request for a review of the revised permanency plan or plans and the child's placement, to the independent reviewing agency before the expiration of the child's placement. The request shall include a statement that an extension of the child's placement would be in the best interests of the child, together with reliable and credible information in support of that statement, a statement that the child and the parent ~~or~~, guardian, or Indian custodian of the child consent to the extension of the child's placement, and a request that the independent reviewing agency approve an extension of the child's placement. On receipt of a revised permanency plan or plans and a request for review, the independent reviewing agency shall set a time and place for the review and shall advise the agency that placed the child or that arranged the placement of the child of the time and place of the review.

SECTION 184. 48.63 (5) (d) 4. of the statutes is amended to read:

48.63 (5) (d) 4. Not less than 10 days before the review, the agency that placed the child or that arranged the placement of the child shall provide a copy of the revised permanency plan or plans and the request for review submitted under subd. 3. and notice of the time and place of the review to the child, the parent, guardian, Indian custodian, and legal custodian of the child, and the operator of the group home in which the child is placed, together with notice of the issues to be determined as part of the permanency plan review and notice of the fact that those persons may have the opportunity to be heard at the review by submitting written comments to that agency or the independent reviewing agency before the review or by participating at the review.

SECTION 185. 48.63 (5) (d) 5. of the statutes is amended to read:

48.63 (5) (d) 5. At the review, any person specified in subd. 4. may present information relevant to the issue of extension and information relevant to the determinations specified in s. 48.38 (5) (c). After receiving that information, the independent reviewing agency shall make the determinations specified in s. 48.38 (5) (c) and determine whether an extension of the child's placement is in the best interests of the child and whether the child and the parent ~~or~~, guardian, or Indian custodian of the child consent to the extension. If the independent reviewing agency determines that the extension is in the best interests of the child and that the child and the parent ~~or~~, guardian, or Indian custodian of the child consent to the extension, the independent reviewing agency shall approve, in writing, an extension of the placement for a specified period of time not to exceed 6 months, stating the reason for the approval, and the agency that placed the child or that arranged the placement of the child may extend the child's placement for the period of time approved. If the independent reviewing agency determines that the extension is not in the best interests of the child or that the child and the parent ~~or~~, guardian, or Indian custodian of the child do not consent to the extension, the independent reviewing agency shall, in writing, disapprove an extension of the placement, stating the reason for the disapproval, and the agency that placed the child or that arranged the placement of the child may not extend the placement of the child past the expiration date of the voluntary placement unless the agency obtains a court order placing the child in the group home after the expiration date of the voluntary placement. Notwithstanding the approval of an extension under this subdivision, the child or the parent ~~or~~, guardian, or Indian custodian of the child may terminate the placement at any time during the extension period.

SECTION 186. 48.63 (5) (d) 6. of the statutes is amended to read:

48.63 (5) (d) 6. Within 30 days after the review, the agency that prepared the revised permanency plan or plans shall prepare a written summary of the determina-

tions specified in s. 48.38 (5) (c) that were made under subd. 5. and shall provide a copy of that summary to the independent reviewing agency, the child, the parent, guardian, Indian custodian, and legal custodian of the child, and the operator of the group home in which the child was placed.

SECTION 187. 48.645 (1) (a) of the statutes is amended to read:

48.645 (1) (a) The child is living in a foster home or treatment foster home licensed under s. 48.62 if a license is required under that section, in a foster home or treatment foster home located within the boundaries of a ~~federally recognized American Indian~~ reservation in this state and licensed by the tribal governing body of the reservation, in a group home licensed under s. 48.625, in a subsidized guardianship home under s. 48.62 (5), or in a residential care center for children and youth licensed under s. 48.60, and has been placed in the foster home, treatment foster home, group home, subsidized guardianship home, or center by a county department under s. 46.215, 46.22, or 46.23, by the department, or by a ~~federally recognized American Indian tribal~~ governing body of an Indian tribe in this state under an agreement with a county department under s. 46.215, 46.22, or 46.23.

SECTION 188. 48.645 (1) (a) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.645 (1) (a) The child is living in a foster home licensed under s. 48.62 if a license is required under that section, in a foster home located within the boundaries of a reservation in this state and licensed by the tribal governing body of the reservation, in a group home licensed under s. 48.625, in a subsidized guardianship home under s. 48.62 (5), or in a residential care center for children and youth licensed under s. 48.60, and has been placed in the foster home, group home, subsidized guardianship home, or center by a county department under s. 46.215, 46.22, or 46.23, by the department, or by a governing body of an Indian tribe in this state under an agreement with a county department under s. 46.215, 46.22, or 46.23.

SECTION 189. 48.645 (2) (a) 1. of the statutes is amended to read:

48.645 (2) (a) 1. A nonrelative who cares for the dependent child in a foster home or treatment foster home having a license under s. 48.62, in a foster home or treatment foster home located within the boundaries of a ~~federally recognized American Indian~~ reservation in this state and licensed by the tribal governing body of the reservation or in a group home licensed under s. 48.625, a subsidized guardian or interim caretaker under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who cares for the dependent child, regardless of the cause or prospective period of dependency. The state shall reimburse counties pursuant to the procedure under s. 48.569 (2) and the percentage rate of participation set forth in s. 48.569 (1) (d) for aid granted under this

section except that if the child does not have legal settlement in the granting county, state reimbursement shall be at 100%. The county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48 (17) shall determine the legal settlement of the child. A child under one year of age shall be eligible for aid under this subsection irrespective of any other residence requirement for eligibility within this section.

SECTION 190. 48.645 (2) (a) 1. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.645 (2) (a) 1. A nonrelative who cares for the dependent child in a foster home having a license under s. 48.62, in a foster home located within the boundaries of a reservation in this state and licensed by the tribal governing body of the reservation or in a group home licensed under s. 48.625, a subsidized guardian or interim caretaker under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who cares for the dependent child, regardless of the cause or prospective period of dependency. The state shall reimburse counties pursuant to the procedure under s. 48.569 (2) and the percentage rate of participation set forth in s. 48.569 (1) (d) for aid granted under this section except that if the child does not have legal settlement in the granting county, state reimbursement shall be at 100%. The county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48 (17) shall determine the legal settlement of the child. A child under one year of age shall be eligible for aid under this subsection irrespective of any other residence requirement for eligibility within this section.

SECTION 191. 48.645 (2) (a) 3. of the statutes is amended to read:

48.645 (2) (a) 3. A county or, in a county having a population of 500,000 or more, the department, when the child is placed in a licensed foster home, treatment foster home, group home, or residential care center for children and youth or in a subsidized guardianship home by a licensed child welfare agency or by a ~~federally recognized American Indian tribal~~ governing body of an Indian tribe in this state or by its designee, if the child is in the legal custody of the county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48 (17) or if the child was removed from the home of a relative as a result of a judicial determination that continuance in the home of the relative would be contrary to the child's welfare for any reason and the placement is made under an agreement with the county department or the department.

SECTION 192. 48.645 (2) (a) 3. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.645 (2) (a) 3. A county or, in a county having a population of 500,000 or more, the department, when the child is placed in a licensed foster home, group home, or

residential care center for children and youth or in a subsidized guardianship home by a licensed child welfare agency or by a governing body of an Indian tribe in this state or by its designee, if the child is in the legal custody of the county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48 (17) or if the child was removed from the home of a relative as a result of a judicial determination that continuance in the home of the relative would be contrary to the child's welfare for any reason and the placement is made under an agreement with the county department or the department.

SECTION 193. 48.645 (2) (a) 4. of the statutes is amended to read:

48.645 (2) (a) 4. A licensed foster home, treatment foster home, group home, or residential care center for children and youth or a subsidized guardianship home when the child is in the custody or guardianship of the state, when the child is a ward of ~~an American Indian a~~ tribal court in this state and the placement is made under an agreement between the department and the ~~tribal~~ governing body of the Indian tribe of the tribal court, or when the child was part of the state's direct service case load and was removed from the home of a relative as a result of a judicial determination that continuance in the home of a relative would be contrary to the child's welfare for any reason and the child is placed by the department.

SECTION 194. 48.645 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.645 (2) (a) 4. A licensed foster home, group home, or residential care center for children and youth or a subsidized guardianship home when the child is in the custody or guardianship of the state, when the child is a ward of a tribal court in this state and the placement is made under an agreement between the department and the governing body of the Indian tribe of the tribal court, or when the child was part of the state's direct service case load and was removed from the home of a relative as a result of a judicial determination that continuance in the home of a relative would be contrary to the child's welfare for any reason and the child is placed by the department.

SECTION 195. 48.645 (2) (b) of the statutes is amended to read:

48.645 (2) (b) Notwithstanding par. (a), aid under this section may not be granted for placement of a child in a foster home or treatment foster home licensed by a ~~federally recognized American Indian tribal~~ governing body of an Indian tribe, for placement of a child in a foster home, treatment foster home, group home, subsidized guardianship home, or residential care center for children and youth by a ~~tribal~~ governing body of an Indian tribe or its designee, or for the placement of a child who is a ward of a tribal court if the ~~tribal~~ governing body of the Indian tribe of the tribal court is receiving or is eligible to receive funds from the federal government for that type of placement.

SECTION 196. 48.645 (2) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

48.645 (2) (b) Notwithstanding par. (a), aid under this section may not be granted for placement of a child in a foster home licensed by a governing body of an Indian tribe, for placement of a child in a foster home, group home, subsidized guardianship home, or residential care center for children and youth by a governing body of an Indian tribe or its designee, or for the placement of a child who is a ward of a tribal court if the governing body of the Indian tribe of the tribal court is receiving or is eligible to receive funds from the federal government for that type of placement.

SECTION 197. 48.685 (1) (e) of the statutes is repealed.

SECTION 198. 48.685 (5) (a) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

48.685 (5) (a) Subject to par. (bm), the department may license to operate an entity, the department in a county having a population of 500,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify under s. 48.651, a county department or a child welfare agency may license under s. 48.62, and a school board may contract with under s. 120.13 (14) a person who otherwise may not be licensed, certified, or contracted with for a reason specified in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside at the entity a person who otherwise may not be employed, contracted with, or permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department, the county department, the contracted agency, the child welfare agency, or the school board or, in the case of an entity that is located within the boundaries of a reservation, to the person or body designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

SECTION 199. 48.685 (5d) (a) (intro.) of the statutes is amended to read:

48.685 (5d) (a) (intro.) Any Indian tribe that chooses to conduct rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation review plan that includes all of the following:

SECTION 200. 48.685 (5d) (a) 2. of the statutes is amended to read:

48.685 (5d) (a) 2. The title of the person or body designated by the Indian tribe to whom a request for review must be made.

SECTION 201. 48.685 (5d) (a) 3. of the statutes is amended to read:

48.685 (5d) (a) 3. The title of the person or body designated by the Indian tribe to determine whether a person has been rehabilitated.

SECTION 202. 48.685 (5d) (a) 3m. of the statutes is amended to read:

48.685 (5d) (a) 3m. The title of the person or body, designated by the Indian tribe, to whom a person may appeal an adverse decision made by the person specified under subd. 3. and whether the Indian tribe provides any further rights to appeal.

SECTION 203. 48.685 (5d) (a) 4. of the statutes is amended to read:

48.685 (5d) (a) 4. The manner in which the Indian tribe will submit information relating to a rehabilitation review to the department so that the department may include that information in its report to the legislature required under sub. (5g).

SECTION 204. 48.685 (5d) (b) of the statutes is amended to read:

48.685 (5d) (b) If, within 90 days after receiving the plan, the department does not disapprove the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the department disapproves the plan, the department shall provide notice of that disapproval to the Indian tribe in writing, together with the reasons for the disapproval. The department may not disapprove a plan unless the department finds that the plan is not rationally related to the protection of clients. If the department disapproves the plan, the Indian tribe may, within 30 days after receiving notice of the disapproval, request that the secretary review the department's decision. A final decision under this paragraph is not subject to further review under ch. 227.

SECTION 205. 48.825 (1) (b) of the statutes is amended to read:

48.825 (1) (b) "Another jurisdiction" means a state of the United States other than Wisconsin, the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States or a ~~federally recognized American~~ an Indian tribe ~~or band~~.

SECTION 206. 48.83 (1) of the statutes is amended to read:

48.83 (1) ~~The Except as provided in s. 48.028 (3) (b), the~~ court of the county where the proposed adoptive parent or child resides, upon the filing of a petition for adoption or for the adoptive placement of a child, has jurisdiction over the child until the petition is withdrawn, denied, or granted. Venue shall be in the county where the proposed adoptive parent or child resides at the time the petition is filed. The court may transfer the case to a court in the county in which the proposed adoptive parents reside.

SECTION 207. 48.831 (1r) of the statutes is created to read:

48.831 (1r) NOTICE. When a petition is filed under sub. (1m), the court shall provide notice of the fact-finding hearing under sub. (3) to all interested parties as provided in s. 48.27 (6). If the court knows or has reason to know that the child is an Indian child, the court shall

provide notice to the Indian child's Indian custodian, if any, and tribe, if known, in the manner specified in s. 48.028 (4) (a). No hearing may be held under sub. (3) until at least 10 days after receipt of the notice by the Indian child's Indian custodian and tribe or, if the identity or location of the Indian child's Indian custodian or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's Indian custodian or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 208. 48.831 (2) of the statutes is amended to read:

48.831 (2) **REPORT.** If the department, county department, or child welfare agency files a petition, ~~it shall submit the court shall order the department, county department, or child welfare agency to file~~ a report ~~to with~~ the court containing as much of the information specified under s. 48.425 (1) (a) and (am) as is reasonably ascertainable and, if applicable, the information specified under s. 48.425 (1) (g). If the petition is filed by a relative or other person specified under sub. (1m) (d), the court shall order the department or a child welfare agency, if the department or agency consents, or a county department to file a report containing the information specified in this subsection. If the child is an Indian child, the court may order the department, county department, or child welfare agency, or request the tribal child welfare department of the Indian child's tribe, if that department consents, to file a report containing the information specified in this subsection. The department, county department or, child welfare agency, or tribal child welfare department, if that department consents, shall file the report at least 5 days before the date of the fact-finding hearing on the petition.

SECTION 209. 48.831 (4) (cm) of the statutes is created to read:

48.831 (4) (cm) If the child is an Indian child who is in the custody of an Indian custodian, the court may not remove the child from the custody of the Indian custodian under par. (c) unless the court finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian child by the Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1. and the court finds that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. In placing an Indian child following a transfer of guardianship and custody under par. (b) or (c), the custodian appointed under par. (b) or (c) shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless there is good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 210. 48.833 (3) of the statutes is created to read:

48.833 (3) **INDIAN CHILD; PLACEMENT PREFERENCES.** In placing an Indian child for adoption under sub. (1) or (2), the department, county department, or child welfare agency shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the department, county department, or child welfare agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 211. 48.837 (1r) (a) of the statutes is amended to read:

48.837 (1r) (a) At the request of a parent having custody of a child and the proposed adoptive parent or parents of the child, the department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under s. 48.60 may place the child in the home of the proposed adoptive parent or parents prior to the filing of a petition under sub. (2) as provided in par. (b) or (c), whichever is applicable, and par. (d). In placing an Indian child for adoption under this paragraph, the department, county department, or child welfare agency shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the department, county department, or child welfare agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 212. 48.837 (2) (e) of the statutes is created to read:

48.837 (2) (e) If the child is an Indian child, the names and addresses of the Indian child's Indian custodian, if any, and tribe, if known.

SECTION 213. 48.837 (4) (c) of the statutes is amended to read:

48.837 (4) (c) Shall, when the petition has been filed under sub. (1), order the department or a county department under s. 48.57 (1) (e) or (hm) to investigate the proposed adoptive placement, to interview each petitioner, to provide counseling if requested, and to report its recommendation to the court at least 5 days before the hearing on the petition. If a licensed child welfare agency or, in the case of an Indian child, the tribal child welfare department of the Indian child's tribe has investigated the proposed adoptive placement and interviewed the petitioners, the court may accept a report and recommendation from the child welfare agency or tribal child welfare department in place of the court-ordered report required under this paragraph. In reporting its recommendations under this paragraph with respect to an Indian child, the department, a county department, or a child welfare agency shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the department, county department, or child welfare agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 214. 48.837 (4) (d) of the statutes is amended to read:

48.837 (4) (d) May, in the case of a child who has not been placed under sub. (1r), order the department or a county department under s. 48.57 (1) (e) or (hm), at the request of a petitioning parent or on its own motion after ordering the child taken into custody under s. 48.19 (1) (c), to place the child, pending the hearing on the petition, in any home in this state that is licensed under s. 48.62 or in any home outside this state if the conditions under sub. (1r) (c) are met. In placing an Indian child for adoption under this paragraph, the department or county department shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the department, county department, or child welfare agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 215. 48.837 (6) (c) of the statutes is amended to read:

48.837 (6) (c) After the hearing on the petition under sub. (2), the court shall make findings on the allegations of the petition and the report ordered under sub. (4) (c) and make a conclusion as to whether placement in the home is in the best interest of the child. In determining whether placement of an Indian child in the home is in the best interest of the Indian child, the court shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 216. 48.85 (1) of the statutes is amended to read:

48.85 (1) At least 10 days prior to the hearing, the guardian shall file its recommendation with the court. In making a recommendation under this subsection with respect to an Indian child, the guardian shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c).

SECTION 217. 48.88 (2) (a) (intro.) of the statutes is amended to read:

48.88 (2) (a) (intro.) Except as provided under par. (ag) and (c), when a petition to adopt a child is filed, the court shall order an investigation to determine whether the child is a proper subject for adoption and whether the petitioner's home is suitable for the child. The court shall order one of the following to conduct the investigation:

SECTION 218. 48.88 (2) (ag) of the statutes is created to read:

48.88 (2) (ag) If the child is an Indian child, the court may request the tribal child welfare department of the Indian child's tribe to conduct the investigation. If the tribal child welfare department agrees to conduct the investigation, that investigation may be accepted in lieu of the investigation under par. (a).

SECTION 219. 48.88 (2) (b) of the statutes is amended to read:

48.88 (2) (b) The agency or tribal child welfare department making the investigation shall file its report with the court at least 10 days before the hearing unless the time is reduced for good cause shown by the petitioner. In reporting on an investigation of the proposed adoptive home of an Indian child, the agency shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order. The report shall be part of the record of the proceedings.

SECTION 220. 48.89 (1) of the statutes is amended to read:

48.89 (1) The recommendation of the department is required for the adoption of a child if the child is not under the guardianship of a county department under s. 48.57 (1) (e) or (hm) or a child welfare agency under s. 48.61 (5). In making a recommendation under this subsection with respect to an Indian child, the department shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the department finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 221. 48.91 (3) of the statutes is amended to read:

48.91 (3) If after the hearing and a study of the report required by s. 48.88 and the recommendation required by s. 48.841 or 48.89, the court is satisfied that the necessary consents or recommendations have been filed and that the adoption is in the best interests of the child, the court shall make an order granting the adoption. In determining whether the adoption is in the best interests of an Indian child, the court shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order. The order may change the name of the minor to that requested by petitioners.

SECTION 222. 48.93 (1d) of the statutes is amended to read:

48.93 (1d) All records and papers pertaining to an adoption proceeding shall be kept in a separate locked file and may not be disclosed except under sub. (1g) ~~or~~, (1r), or (1v), s. 48.432, 48.433, 48.434, 48.48 (17) (a) 9. or 48.57 (1) (j), or by order of the court for good cause shown.

SECTION 223. 48.93 (1v) of the statutes is created to read:

48.93 (1v) (a) At the time a court enters an order granting adoption of an Indian child, the court shall provide the U.S. secretary of the interior with the information specified in s. 48.028 (9) (a) and (b).

(b) At the request of an Indian adoptee who is 18 years of age or older, the court that entered the order granting adoption of the adoptee shall provide or arrange to provide the adoptee with the information specified in s. 48.028 (9) (c).

SECTION 224. 48.977 (4) (a) 1. of the statutes is amended to read:

48.977 (4) (a) 1. The child or the child's guardian or legal custodian, or Indian custodian.

SECTION 225. 48.977 (4) (b) 6. of the statutes is amended to read:

48.977 (4) (b) 6. A statement of whether the child may be subject to the federal Indian child welfare act Child Welfare Act, 25 USC 1911 1901 to 1963, and, if the child may be subject to that act, the names and addresses of the child's Indian custodian, if any, and Indian tribe, if known.

SECTION 226. 48.977 (4) (c) 1. j. of the statutes is created to read:

48.977 (4) (c) 1. j. If the child is an Indian child, the Indian child's Indian custodian, if any, and tribe, if known.

SECTION 227. 48.977 (4) (c) 2. of the statutes is amended to read:

48.977 (4) (c) 2. Service Except as provided in subd. 2m., service shall be made by 1st class mail at least 7 days before the hearing or by personal service at least 7 days before the hearing or, if with reasonable diligence a party specified in subd. 1. cannot be served by mail or personal service, service shall be made by publication of a notice published as a class 1 notice under ch. 985. In determining which newspaper is likely to give notice as required under s. 985.02 (1), the petitioner shall consider the residence of the party, if known, or the residence of the relatives of the party, if known, or the last-known location of the party.

SECTION 228. 48.977 (4) (c) 2m. of the statutes is created to read:

48.977 (4) (c) 2m. If the petitioner knows or has reason to know that the child is an Indian child, service under subd. 2. to the Indian child's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). No hearing may be held under par. (cm) until at least 10 days after receipt of service by the Indian child's parent, Indian custodian, and tribe or, if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of service by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 229. 48.977 (4) (g) 4. of the statutes is created to read:

48.977 (4) (g) 4. If the child is an Indian child, the order of placement preference under s. 48.028 (7) (b) or,

if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 230. 48.978 (2) (b) 11. of the statutes is amended to read:

48.978 (2) (b) 11. A statement of whether the child may be subject to the federal Indian Child Welfare Act, 25 USC 1911 1901 to 1963, and, if the child may be subject to that act, the names and addresses of the child's Indian custodian, if any, and Indian tribe, if known.

SECTION 231. 48.981 (1) (cs) of the statutes is renumbered 48.02 (8g) and amended to read:

48.02 (8g) "Indian child" means any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe or band in any of the following ways:

(a) As a member of the Indian tribe or band.

(b) As a person who is both eligible for membership in the an Indian tribe or band and is the biological child of a member of the an Indian tribe or band.

SECTION 232. 48.981 (1) (ct) of the statutes is amended to read:

48.981 (1) (ct) "Indian unborn child" means an unborn child who, when born, may be eligible for affiliation with an Indian tribe or band in any of the following ways:

1. As a member of the Indian tribe or band.

2. As a person who is both eligible for membership in the an Indian tribe or band and the biological child of a member of the an Indian tribe or band.

SECTION 233. 48.981 (1) (i) of the statutes is amended to read:

48.981 (1) (i) "Tribal agent" means the person designated under 25 CFR 23.12 by an Indian tribe or band to receive notice of involuntary child custody proceedings under the Indian child welfare act federal Indian Child Welfare Act, 25 USC 1901 to 1963.

SECTION 234. 48.981 (3) (bm) (intro.) of the statutes is amended to read:

48.981 (3) (bm) *Notice of report to Indian tribal agent.* (intro.) In a county ~~which~~ that has wholly or partially within its boundaries a federally recognized Indian reservation or a bureau of Indian affairs service area for the Ho-Chunk tribe, if a county department ~~which~~ that receives a report under par. (a) pertaining to a child or unborn child knows or has reason to know that the child is an Indian child who resides in the county or that the unborn child is an Indian unborn child whose expectant mother resides in the county, the county department shall provide notice, which shall consist only of the name and address of the Indian child or expectant mother and the fact that a report has been received about that Indian child or Indian unborn child, within 24 hours to one of the following:

SECTION 235. 48.981 (3) (bm) 1. of the statutes is amended to read:

48.981 (3) (bm) 1. If the county department knows with which Indian tribe ~~or band~~ the child is affiliated, or with which Indian tribe ~~or band~~ the Indian unborn child, when born, may be eligible for affiliation, and it the Indian tribe is a Wisconsin ~~tribe or band~~, the tribal agent of that tribe or band ~~Indian tribe, the tribal agent of that tribe.~~

SECTION 236. 48.981 (3) (bm) 2. of the statutes is amended to read:

48.981 (3) (bm) 2. If the county department does not know with which Indian tribe ~~or band~~ the child is affiliated, or with which Indian tribe ~~or band~~ the Indian unborn child, when born, may be eligible for affiliation, or the child or expectant mother is not affiliated with a Wisconsin Indian tribe ~~or band~~, the tribal agent serving the reservation or Ho-Chunk service area where the child or expectant mother resides.

SECTION 237. 48.981 (7) (a) 10m. of the statutes is amended to read:

48.981 (7) (a) 10m. A tribal court, or other adjudicative body authorized by a ~~tribe or band~~ an Indian tribe to perform child welfare functions, that exercises jurisdiction over children and unborn children alleged to be in need of protection or services for use in proceedings in which abuse or neglect of the child who is the subject of the report or record or abuse of the unborn child who is the subject of the report or record is an issue.

SECTION 238. 48.981 (7) (a) 10r. of the statutes is amended to read:

48.981 (7) (a) 10r. A tribal court, or other adjudicative body authorized by a ~~tribe or band~~ an Indian tribe to perform child welfare functions, that exercises jurisdiction over children alleged to be in need of protection or services for use in proceedings in which an issue is the substantial risk of abuse or neglect of a child who, during the time period covered by the report or record, was in the home of the child who is the subject of the report or record.

SECTION 239. 48.981 (7) (a) 11m. of the statutes is amended to read:

48.981 (7) (a) 11m. An attorney representing the interests of an Indian tribe ~~or band~~ in proceedings under subd. 10m. or 10r., of an Indian child in proceedings under subd. 10m. or 10r. or of an Indian unborn child in proceedings under subd. 10m.

SECTION 240. 48.983 (1) (d) of the statutes is repealed.

SECTION 241. 48.983 (1) (e) of the statutes is repealed.

SECTION 242. 806.245 (1m) of the statutes is created to read:

806.245 (1m) The public acts, records, and judicial proceedings of any Indian tribe that are applicable to an Indian child custody proceeding, as defined in s. 48.028 (2) (d), or an Indian juvenile child custody proceeding, as defined in s. 938.028 (2) (b), shall be given full faith and

credit by the state as provided in s. 48.028 (3) (f) or 938.028 (3) (f).

SECTION 243. 938.01 (3) of the statutes is created to read:

938.01 (3) INDIAN JUVENILE WELFARE; DECLARATION OF POLICY. In Indian juvenile custody proceedings, the best interests of the Indian juvenile shall be determined in accordance with the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), and the policy specified in this subsection. It is the policy of this state for courts and agencies responsible for juvenile welfare to do all of the following:

(a) Cooperate fully with Indian tribes in order to ensure that the federal Indian Child Welfare Act is enforced in this state.

(b) Protect the best interests of Indian juveniles and promote the stability and security of Indian tribes and families by doing all of the following:

1. Establishing minimum standards for the removal of Indian juveniles from their families and the placement of those juveniles in out-of-home care placements that will reflect the unique value of Indian culture.

2. Using practices, in accordance with the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), this section, and other applicable law, that are designed to prevent the voluntary or involuntary out-of-home care placement of Indian juveniles and, when an out-of-home care placement is necessary, placing an Indian juvenile in a placement that reflects the unique values of the Indian juvenile's tribal culture and that is best able to assist the Indian juvenile in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian juvenile's tribe and tribal community.

SECTION 244. 938.02 (8d) of the statutes is created to read:

938.02 (8d) "Indian" means any person who is a member of an Indian tribe or who is an Alaska native and a member of a regional corporation, as defined in [43 USC 1606](#).

SECTION 245. 938.02 (8g) of the statutes is created to read:

938.02 (8g) "Indian juvenile" means an unmarried person who is under 18 years of age and who is affiliated with an Indian tribe in any of the following ways:

(a) As a member of the Indian tribe.

(b) As a person who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

SECTION 246. 938.02 (8m) of the statutes is created to read:

938.02 (8m) "Indian juvenile's tribe" means one of the following:

(a) The Indian tribe in which an Indian juvenile is a member or eligible for membership.

(b) In the case of an Indian juvenile who is a member of or eligible for membership in more than one tribe, the

Indian tribe with which the Indian juvenile has the more significant contacts.

SECTION 247. 938.02 (8p) of the statutes is created to read:

938.02 (8p) “Indian custodian” means an Indian person who has legal custody under tribal law or custom or under state law of an Indian juvenile who is the subject of an Indian juvenile custody proceeding, as defined in s. 938.028 (2) (b), or of an Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7) who is the subject of a temporary physical custody proceeding under ss. 939.19 to 938.21 or to whom temporary physical care, custody, and control has been transferred by the parent of that juvenile.

SECTION 248. 938.02 (8r) of the statutes is created to read:

938.02 (8r) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the services provided to Indians by the U.S. secretary of the interior because of Indian status, including any Alaska native village, as defined in [43 USC 1602](#) (c).

SECTION 249. 938.02 (9m) of the statutes is renumbered 938.02 (8b).

SECTION 250. 938.02 (10m) of the statutes is amended to read:

938.02 (10m) “Juvenile”, when used without further qualification, means a person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, “juvenile” does not include a person who has attained 17 years of age.

SECTION 251. 938.02 (12m) of the statutes is amended to read:

938.02 (12m) “Off-reservation trust land” means land in this state that is held in trust by the federal government for the benefit of ~~a~~ an Indian tribe or ~~an American Indian individual~~ and that is located outside the boundaries of ~~a~~ an Indian tribe’s reservation.

SECTION 252. 938.02 (13) of the statutes is amended to read:

938.02 (13) “Parent” means ~~either~~ a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the juvenile is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, “parent” includes a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. “Parent” does not include any person whose parental rights have been terminated. For purposes of the application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian

person who has lawfully adopted an Indian juvenile, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

SECTION 253. 938.02 (15) of the statutes is amended to read:

938.02 (15) “Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, steppaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “relative” includes an extended family member, as defined in s. 938.028 (2) (a), whether by blood, marriage, or adoption, including adoption under tribal law or custom.

SECTION 254. 938.02 (15c) of the statutes is amended to read:

938.02 (15c) “Reservation”, except as otherwise provided in s. 938.028 (2) (e), means land in this state within the boundaries of the reservation of a tribe.

SECTION 255. 938.02 (18g) of the statutes is repealed.

SECTION 256. 938.02 (18j) of the statutes is created to read:

938.02 (18j) “Tribal court” means a court that has jurisdiction over juvenile custody proceedings, and that is either a court of Indian offenses or a court established and operated under the code or custom of an Indian tribe, or any other administrative body of an Indian tribe that is vested with authority over Indian juvenile custody proceedings.

SECTION 257. 938.028 of the statutes is repealed and recreated to read:

938.028 Indian juvenile welfare. (1) DECLARATION OF POLICY. In Indian juvenile custody proceedings, the best interests of the Indian juvenile shall be determined in accordance with the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), and the policy specified in s. 938.01 (3).

(2) DEFINITIONS. In this section:

(a) “Extended family member” means a person who is defined as a member of an Indian juvenile’s extended family by the law or custom of the Indian juvenile’s tribe or, in the absence of such a law or custom, a person who has attained the age of 18 years and who is the Indian juvenile’s grandparent, aunt, uncle, brother, sister,

brother-in-law, sister-in-law, niece, nephew, first cousin, 2nd cousin, or stepparent.

(b) “Indian juvenile custody proceeding” means a proceeding under s. 938.13 (4), (6), (6m), or (7) that is governed by the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), in which an out-of-home care placement may occur.

(c) “Out-of-home care placement” means the removal of an Indian juvenile from the home of his or her parent or Indian custodian for temporary placement in a foster home, treatment foster home, group home, residential care center for children and youth, or shelter care facility, in the home of a relative other than a parent, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the juvenile returned upon demand. “Out-of-home care placement” does not include holding an Indian juvenile in custody under ss. 938.19 to 938.21.

(d) “Qualified expert witness” means a person who is any of the following:

1. A member of the Indian juvenile’s tribe recognized by the Indian juvenile’s tribal community as knowledgeable regarding the tribe’s customs relating to family organization or child-rearing practices.

2. A member of another tribe who is knowledgeable regarding the customs of the Indian juvenile’s tribe relating to family organization or child-rearing practices.

3. A professional person having substantial education and experience in the person’s professional specialty and having substantial knowledge of the customs, traditions, and values of the Indian juvenile’s tribe relating to family organization and child-rearing practices.

4. A layperson having substantial experience in the delivery of juvenile and family services to Indians and substantial knowledge of the prevailing social and cultural standards and child-rearing practices of the Indian juvenile’s tribe.

(e) “Reservation” means Indian country, as defined in [18 USC 1151](#), or any land not covered under that section to which title is either held by the United States in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual, subject to a restriction by the United States against alienation.

(3) JURISDICTION OVER INDIAN JUVENILE CUSTODY PROCEEDINGS. (a) *Applicability.* This section and the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), apply to any Indian juvenile custody proceeding regardless of whether the Indian juvenile is in the legal custody or physical custody of an Indian parent, Indian custodian, extended family member, or other person at the commencement of the proceeding and whether the Indian juvenile resides or is domiciled on or off of a reservation. A court assigned to exercise jurisdiction under this chapter may not determine whether this section and the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), apply to an Indian juvenile custody proceeding based on

whether the Indian juvenile is part of an existing Indian family.

(b) *Exclusive tribal jurisdiction.* 1. An Indian tribe shall have exclusive jurisdiction over any Indian juvenile custody proceeding involving an Indian juvenile who resides or is domiciled within the reservation of the tribe, except when that jurisdiction is otherwise vested in the state by federal law and except as provided in subd. 2. If an Indian juvenile is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction regardless of the residence or domicile of the juvenile.

2. Subdivision 1. does not prevent an Indian juvenile who resides or is domiciled within a reservation, but who is temporarily located off the reservation, from being taken into and held in custody under ss. 938.19 to 938.21 in order to prevent imminent physical harm or damage to the Indian juvenile. The person taking the Indian juvenile into custody or the intake worker shall immediately release the Indian juvenile from custody upon determining that holding the Indian juvenile in custody is no longer necessary to prevent imminent physical damage or harm to the Indian juvenile and shall expeditiously restore the Indian juvenile to his or her parent or Indian custodian, release the Indian juvenile to an appropriate official of the Indian juvenile’s tribe, or initiate an Indian juvenile custody proceeding, as may be appropriate.

(c) *Transfer of proceedings to tribe.* In any Indian juvenile custody proceeding under this chapter involving an out-of-home placement of an Indian juvenile who is not residing or domiciled within the reservation of the Indian juvenile’s tribe, the court assigned to exercise jurisdiction under this chapter shall, upon the petition of the Indian juvenile’s parent, Indian custodian, or tribe, transfer the proceeding to the jurisdiction of the tribe unless any of the following applies:

1. A parent of the Indian juvenile objects to the transfer.

2. The Indian juvenile’s tribe does not have a tribal court, or the tribal court of the Indian juvenile’s tribe declines jurisdiction.

3. The court determines that good cause exists to deny the transfer. In determining whether good cause exists to deny the transfer, the court may not consider any perceived inadequacy of the tribal social services department or the tribal court of the Indian juvenile’s tribe. The court may determine that good cause exists to deny the transfer only if the person opposing the transfer shows by clear and convincing evidence that any of the following applies:

- a. The Indian juvenile is 12 years of age or over and objects to the transfer.

- b. The evidence or testimony necessary to decide the case cannot be presented in tribal court without undue hardship to the parties or the witnesses and that the tribal court is unable to mitigate the hardship by making arrangements to receive the evidence or testimony by use

of telephone or live audiovisual means, by hearing the evidence or testimony at a location that is convenient to the parties and witnesses, or by use of other means permissible under the tribal court's rules of evidence.

c. The Indian juvenile's tribe received notice of the proceeding under sub. (4) (a), the tribe has not indicated to the court in writing that the tribe is monitoring the proceeding and may request a transfer at a later date, the petition for transfer is filed by the tribe, and the petition for transfer is filed more than 6 months after the tribe received notice of the proceeding.

(d) *Declination of jurisdiction.* If the court assigned to exercise jurisdiction under this chapter determines that the petitioner in an Indian juvenile custody proceeding has improperly removed the Indian juvenile from the custody of his or her parent or Indian custodian or has improperly retained custody of the Indian juvenile after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and immediately return the Indian juvenile to the custody of the parent or Indian custodian, unless the court determines that returning the Indian juvenile to his or her parent or Indian custodian would subject the Indian juvenile to substantial and immediate danger or the threat of that danger.

(e) *Intervention.* An Indian juvenile's Indian custodian or tribe may intervene at any point in an Indian juvenile custody proceeding under this chapter.

(f) *Full faith and credit.* The state shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe that are applicable to an Indian juvenile custody proceeding to the same extent that the state gives full faith and credit to the public acts, records, and judicial proceedings of any other governmental entity.

(4) COURT PROCEEDINGS. (a) *Notice.* In any involuntary proceeding under s. 938.13 (4), (6), (6m), or (7) involving the out-of-home care placement of a juvenile whom the court knows or has reason to know is an Indian juvenile, the party seeking the out-of-home care placement shall, for the first hearing of the proceeding, notify the Indian juvenile's parent, Indian custodian, and tribe, by registered mail, return receipt requested, of the pending proceeding and of their right to intervene in the proceeding and shall file the return receipt with the court. Notice of subsequent hearings in a proceeding shall be in writing and may be given by mail, personal delivery, or facsimile transmission, but not by electronic mail. If the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined, that notice shall be given to the U.S. secretary of the interior in like manner. The first hearing in the proceeding may not be held until at least 10 days after receipt of the notice by the parent, Indian custodian, and tribe or until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the parent, Indian custodian, or tribe,

the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for that hearing.

(b) *Appointment of counsel.* Whenever an Indian juvenile is the subject of a proceeding under s. 938.13 (4), (6), (6m), or (7) involving the removal of the Indian juvenile from the home of his or her parent or Indian custodian or the placement of the Indian juvenile in an out-of-home care placement, the Indian juvenile's parent or Indian custodian shall have the right to be represented by court-appointed counsel as provided in s. 938.23 (2g). The court may also, in its discretion, appoint counsel for the Indian juvenile under s. 938.23 (1m) or (3) if the court finds that the appointment is in the best interests of the Indian juvenile.

(c) *Examination of reports and other documents.* Each party to a proceeding under s. 938.13 (4), (6), (6m), or (7) involving the out-of-home care placement of an Indian juvenile shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to the out-of-home care placement may be based.

(d) *Out-of-home care placement; serious damage and active efforts.* The court may not order an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) to be removed from the home of the Indian juvenile's parent or Indian custodian and placed in an out-of-home care placement unless all of the following occur:

1. The court finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses chosen in the order of preference listed in par. (e), that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile.

2. The court finds by clear and convincing evidence that active efforts, as described in par. (f) 1., have been made to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. The court shall make that finding notwithstanding that a circumstance specified in s. 938.355 (2d) (b) 1. to 4. applies.

(e) *Qualified expert witness; order of preference.* 1. Any party to a proceeding under s. 938.13 (4), (6), (6m), or (7) involving the out-of-home placement of an Indian juvenile may call a qualified expert witness. Subject to subd. 2., a qualified expert witness shall be chosen in the following order of preference:

a. A member of the Indian juvenile's tribe described in sub. (2) (d) 1.

b. A member of another tribe described in sub. (2) (d) 2.

c. A professional person described in sub. (2) (d) 3.

d. A layperson described in sub. (2) (d) 4.

2. A qualified expert witness from a lower order of preference may be chosen only if the party calling the

qualified expert witness shows that it has made a diligent effort to secure the attendance of a qualified expert witness from a higher order of preference. A qualified expert witness from a lower order of preference may not be chosen solely because a qualified expert witness from a higher order of preference is able to participate in the Indian juvenile custody proceeding only by telephone or live audiovisual means as prescribed in s. 807.13 (2). The fact that a qualified expert witness called by one party is from a lower order of preference under subd. 1. than a qualified expert witness called by another party may not be the sole consideration in weighing the testimony and opinions of the qualified expert witnesses. In weighing the testimony of all witnesses, the court shall consider as paramount the best interests of the Indian juvenile as provided in s. 938.01 (3). The court shall determine the qualifications of a qualified expert witness as provided in ch. 907.

(f) *Active efforts standard.* 1. The court may not order an Indian juvenile to be removed from the home of the Indian juvenile's parent or Indian custodian and placed in an out-of-home care placement unless the evidence of active efforts under par. (d) 2. shows that there has been an ongoing, vigorous, and concerted level of case work and that the active efforts were made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian juvenile's tribe and that utilizes the available resources of the Indian juvenile's tribe, tribal and other Indian child welfare agencies, extended family members of the Indian juvenile, other individual Indian caregivers, and other culturally appropriate service providers. The court's consideration of whether active efforts were made under par. (d) 2. shall include whether all of the following activities were conducted:

a. Representatives designated by the Indian juvenile's tribe with substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the tribal community were requested to evaluate the circumstances of the Indian juvenile's family and to assist in developing a case plan that uses the resources of the tribe and of the Indian community, including traditional and customary support, actions, and services, to address those circumstances.

am. A comprehensive assessment of the situation of the Indian juvenile's family was completed, including a determination of the likelihood of protecting the Indian juvenile's health, safety, and welfare effectively in the Indian juvenile's home.

b. Representatives of the Indian juvenile's tribe were identified, notified, and invited to participate in all aspects of the Indian juvenile custody proceeding at the earliest possible point in the proceeding and their advice was actively solicited throughout the proceeding.

c. Extended family members of the Indian juvenile, including extended family members who were identified

by the Indian juvenile's tribe or parents, were notified and consulted with to identify and provide family structure and support for the Indian juvenile, to assure cultural connections, and to serve as placement resources for the Indian juvenile.

d. Arrangements were made to provide natural and unsupervised family interaction in the most natural setting that can ensure the Indian juvenile's safety, as appropriate to the goals of the Indian juvenile's permanency plan, including arrangements for transportation and other assistance to enable family members to participate in that interaction.

e. All available family preservation strategies were offered or employed and the involvement of the Indian juvenile's tribe was requested to identify those strategies and to ensure that those strategies are culturally appropriate to the Indian juvenile's tribe.

f. Community resources offering housing, financial, and transportation assistance and in-home support services, in-home intensive treatment services, community support services, and specialized services for members of the Indian juvenile's family with special needs were identified, information about those resources was provided to the Indian juvenile's family, and the Indian juvenile's family was actively assisted or offered active assistance in accessing those resources.

g. Monitoring of client progress and client participation in services was provided.

h. A consideration of alternative ways of addressing the needs of the Indian juvenile's family was provided, if services did not exist or if existing services were not available to the family.

2. If any of the activities specified in subd. 1. a. to h. were not conducted, the person seeking the out-of-home care placement shall submit documentation to the court explaining why the activity was not conducted.

(5) **INVALIDATION OF ACTION.** Any Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7) who is the subject of an out-of-home care placement, any parent or Indian custodian from whose custody that Indian juvenile was removed, or the Indian juvenile's tribe may move the court to invalidate that out-of-home care placement on the grounds that the out-of-home care placement was made in violation of [25 USC 1911](#) or [1912](#). If the court finds that those grounds exist, the court shall invalidate the out-of-home care placement.

(6) **PLACEMENT OF INDIAN JUVENILE.** (a) *Out-of-home care placement; preferences.* Any Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7) who is placed in an out-of-home care placement shall be placed in the least restrictive setting that most approximates a family, that meets the Indian juvenile's special needs, if any, and that is within reasonable proximity to the Indian juvenile's home, taking into account those special needs. Subject to pars. (b) to (d),

in placing such an Indian juvenile in an out-of-home care placement, preference shall be given, in the absence of good cause, as described in par. (d), to the contrary, to a placement in one of the following, in the order of preference listed:

1. The home of an extended family member of the Indian juvenile.
2. A foster home or treatment foster home licensed, approved, or specified by the Indian juvenile's tribe.
3. An Indian foster home or treatment foster home licensed or approved by the department, a county department, or a child welfare agency.
4. A group home or residential care center for children and youth approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the needs of the Indian juvenile.

(am) *Temporary physical custody; preferences.* Any Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7) who is being held in temporary physical custody under s. 938.205 (1) shall be placed in compliance with par. (a) or, if applicable, par. (b), unless the person responsible for determining the placement finds good cause, as described in par. (d), for departing from the order of placement preference under par. (a) or finds that emergency conditions necessitate departing from that order. When the reason for departing from that order is resolved, the Indian juvenile shall be placed in compliance with the order of placement preference under par. (a) or, if applicable, par. (b).

(b) *Tribal or personal preferences.* In placing an Indian juvenile under par. (a) or (am), if the Indian juvenile's tribe has established, by resolution, an order of preference that is different from the order specified in par. (a), the order of preference established by that tribe shall be followed, in the absence of good cause, as described in par. (d), to the contrary, so long as the placement is the least restrictive setting appropriate for the Indian juvenile's needs as specified in par. (a). When appropriate, the preference of the Indian juvenile or parent shall be considered, and, when a parent who has consented to the placement evidences a desire for anonymity, that desire shall be given weight, in determining the placement.

(c) *Social and cultural standards.* The standards to be applied in meeting the placement preference requirements of this subsection shall be the prevailing social and cultural standards of the Indian community in which the Indian juvenile's parents or extended family members reside or with which the Indian juvenile's parents or extended family members maintain social and cultural ties.

(d) *Good cause.* 1. Whether there is good cause to depart from the order of placement preference under par. (a) or (b) shall be determined based on any one or more of the following considerations:

- a. When appropriate, the request of the Indian juvenile's parent or, if the Indian juvenile is of sufficient age

and developmental level to make an informed decision, the Indian juvenile, unless the request is made for the purpose of avoiding the application of this section and the federal Indian Child Welfare Act, [25 USC 1901 to 1963](#).

b. Any extraordinary physical, mental, or emotional health needs of the Indian juvenile requiring highly specialized treatment services as established by the testimony of an expert witness, including a qualified expert witness. The length of time that an Indian juvenile has been in a placement does not, in itself, constitute an extraordinary emotional health need.

c. The unavailability of a suitable placement for the Indian juvenile after diligent efforts have been made to place the Indian juvenile in the order of preference under par. (a) or (b).

2. The burden of establishing good cause to depart from the order of placement preference under par. (a) or (b) shall be on the party requesting that departure.

(e) *Report of placement.* A county department or a child welfare agency shall maintain a record of each out-of-home care placement made of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), evidencing the efforts made to comply with the placement preference requirements specified in this subsection, and shall make that record available at any time on the request of the U.S. secretary of the interior or the Indian juvenile's tribe.

(7) **REMOVAL FROM OUT-OF-HOME CARE PLACEMENT.** If an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) is removed from an out-of-home care placement for the purpose of placing the Indian juvenile in another out-of-home care placement, a preadoptive placement, as defined in s. 48.028 (2) (f), or an adoptive placement, as defined in s. 48.028 (2) (a), the placement shall be made in accordance with this section and s. 48.028. Removal of such an Indian juvenile from an out-of-home care placement for the purpose of returning the Indian juvenile to the home of the parent or Indian custodian from whose custody the Indian juvenile was originally removed is not subject to this section.

(8) **HIGHER STATE OR FEDERAL STANDARD APPLICABLE.** The federal Indian Child Welfare Act, [25 USC 1901 to 1963](#), supersedes this chapter in any Indian juvenile custody proceeding governed by that act, except that in any case in which this chapter provides a higher standard of protection for the rights of an Indian juvenile's parent or Indian custodian than the rights provided under that act, the court shall apply the standard under this chapter.

SECTION 258. 938.028 (2) (c) of the statutes, as affected by 2009 Wisconsin Act (this act), is amended to read:

938.028 (2) (c) "Out-of-home care placement" means the removal of an Indian juvenile from the home of his or her parent or Indian custodian for temporary placement in a foster home, ~~treatment foster home~~, group

home, residential care center for children and youth, or shelter care facility, in the home of a relative other than a parent, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the juvenile returned upon demand. "Out-of-home care placement" does not include holding an Indian juvenile in custody under ss. 938.19 to 938.21.

SECTION 259. 938.028 (6) (a) 2. and 3. of the statutes, as affected by 2009 Wisconsin Act (this act), are amended to read:

938.028 (6) (a) 2. A foster home ~~or treatment foster home~~ licensed, approved, or specified by the Indian juvenile's tribe.

3. An Indian foster home ~~or treatment foster home~~ licensed or approved by the department, a county department, or a child welfare agency.

SECTION 260. 938.13 (intro.) of the statutes is amended to read:

938.13 Jurisdiction over juveniles alleged to be in need of protection or services. (intro.) The Except as provided in s. 938.028 (3), the court has exclusive original jurisdiction over a juvenile alleged to be in need of protection or services which can be ordered by the court if any of the following conditions applies:

SECTION 261. 938.15 of the statutes is amended to read:

938.15 Jurisdiction of other courts to determine legal custody. Nothing Except as provided in s. 938.028 (3), nothing in this chapter deprives another court of the right to determine the legal custody of a juvenile by habeas corpus or to determine the legal custody or guardianship of a juvenile if the legal custody or guardianship is incidental to the determination of an action pending in that court. ~~But Except as provided in s. 938.028 (3),~~ the jurisdiction of the court assigned to exercise jurisdiction under this chapter and ch. 48 is paramount in all cases involving juveniles alleged to come within the provisions of ss. 938.12 to 938.14.

SECTION 262. 938.185 (4) (title) of the statutes is amended to read:

938.185 (4) (title) ~~AMERICAN INDIAN JUVENILES.~~

SECTION 263. 938.185 (4) (intro.) of the statutes is amended to read:

938.185 (4) (intro.) Venue for a proceeding under s. 938.12 or 938.13 (12) based on an allegation that an ~~American~~ Indian juvenile has committed a delinquent act may not be in the county specified in sub. (1) (a), unless that county is specified in sub. (1) (b) or (c), if all of the following circumstances apply:

SECTION 264. 938.185 (4) (a) of the statutes is amended to read:

938.185 (4) (a) At the time of the alleged delinquent act the juvenile was under an order of a ~~tribe's tribal~~ court, other than a tribal court order relating to adoption, physical placement or visitation with the juvenile's parent, or permanent guardianship.

SECTION 265. 938.185 (4) (b) of the statutes is amended to read:

938.185 (4) (b) At the time of the alleged delinquent act the juvenile was physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe of the tribal court and any off-reservation trust land of either that Indian tribe or a member of that Indian tribe as a direct consequence of a tribal court order under par. (a), including a tribal court order placing the juvenile in the home of a relative of the juvenile who on or after the date of the tribal court order resides physically outside the boundaries of a reservation and off-reservation trust land.

SECTION 266. 938.19 (2) of the statutes is amended to read:

938.19 (2) NOTIFICATION OF PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN CUSTODIAN. When a juvenile is taken into physical custody under this section, the person taking the juvenile into custody shall immediately attempt to notify the parent, guardian, ~~and legal custodian,~~ and Indian custodian of the juvenile by the most practical means. The person taking the juvenile into custody shall continue such attempt until the parent, guardian, ~~and legal custodian,~~ and Indian custodian of the juvenile are notified, or the juvenile is delivered to an intake worker under s. 938.20 (3), whichever occurs first. If the juvenile is delivered to the intake worker before the parent, guardian, ~~and legal custodian,~~ and Indian custodian are notified, the intake worker, or another person at his or her direction, shall continue the attempt to notify until the parent, guardian, ~~and legal custodian,~~ and Indian custodian of the juvenile are notified.

SECTION 267. 938.20 (2) (ag) of the statutes is amended to read:

938.20 (2) (ag) Except as provided in pars. (b) to (g), a person taking a juvenile into custody shall make every effort to release the juvenile immediately to the juvenile's parent, guardian ~~or~~ legal custodian, or Indian custodian.

SECTION 268. 938.20 (2) (b) of the statutes is amended to read:

938.20 (2) (b) If the juvenile's parent, guardian ~~or~~ legal custodian, or Indian custodian is unavailable, unwilling, or unable to provide supervision for the juvenile, the person who took the juvenile into custody may release the juvenile to a responsible adult after counseling or warning the juvenile as may be appropriate.

SECTION 269. 938.20 (3) of the statutes is amended to read:

938.20 (3) NOTIFICATION TO PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN CUSTODIAN OF RELEASE. If the juvenile is released under sub. (2) (b) to (d) or (g), the person who took the juvenile into custody shall immediately notify the juvenile's parent, guardian, ~~and legal custodian,~~ and Indian custodian of the time and circumstances of the release and the person, if any, to whom the juvenile was released. If the juvenile is not released under sub. (2), the person who took the juvenile into custody shall

arrange in a manner determined by the court and law enforcement agencies for the juvenile to be interviewed by the intake worker under s. 938.067 (2). The person who took the juvenile into custody shall make a statement in writing with supporting facts of the reasons why the juvenile was taken into physical custody and shall give a copy of the statement to the intake worker and to any juvenile 10 years of age or older. If the intake interview is not done in person, the report may be read to the intake worker.

SECTION 270. 938.20 (7) (c) 1. of the statutes is amended to read:

938.20 (7) (c) 1. To a parent, guardian, ~~or legal custodian, or Indian custodian,~~ or to a responsible adult if the parent, guardian, ~~or legal custodian, or Indian custodian~~ is unavailable, unwilling, or unable to provide supervision for the juvenile, counseling or warning the juvenile as may be appropriate; or, if the juvenile is 15 years of age or older, without immediate adult supervision, counseling or warning the juvenile as may be appropriate.

SECTION 271. 938.20 (7) (d) of the statutes is amended to read:

938.20 (7) (d) If the juvenile is released from custody, the intake worker shall immediately notify the juvenile's parent, guardian ~~and~~ legal custodian, ~~and Indian custodian~~ of the time and circumstances of the release and the person, if any, to whom the juvenile was released.

SECTION 272. 938.20 (8) (a) of the statutes is amended to read:

938.20 (8) (a) If a juvenile is held in custody, the intake worker shall notify the juvenile's parent, guardian, ~~and~~ legal custodian, ~~and Indian custodian~~ of the reasons for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to believe that notice would present imminent danger to the juvenile. The parent, guardian, ~~and~~ legal custodian, ~~and Indian custodian~~ shall also be notified of the time and place of the detention hearing required under s. 938.21, the nature and possible consequences of the hearing, ~~and the right to present and cross-examine witnesses at the hearing, and, in the case of a parent or Indian custodian of an Indian juvenile who is the subject of an Indian juvenile custody proceeding, as defined in s. 938.028 (2) (b), the right to counsel under s. 938.028 (4) (b).~~ If the parent, guardian, ~~or~~ legal custodian, ~~or Indian custodian~~ is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible.

SECTION 273. 938.207 (1g) of the statutes is created to read:

938.207 (1g) INDIAN JUVENILE; PLACEMENT PREFERENCES. An Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7) who is held in physical custody under s. 938.205 (1) shall be placed in compliance with s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the person responsible for determining the placement finds good cause, as described in

s. 938.028 (6) (d), for departing from the order of placement preference under s. 938.028 (6) (a) or finds that emergency conditions necessitate departing from that order. When the reason for departing from that order is resolved, the Indian juvenile shall be placed in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b).

SECTION 274. 938.21 (2) (title) of the statutes is amended to read:

938.21 (2) (title) PROCEEDINGS CONCERNING RUN-AWAY-OR DELINQUENT JUVENILES.

SECTION 275. 938.21 (2) (ag) of the statutes is amended to read:

938.21 (2) (ag) Proceedings concerning a juvenile who comes within the jurisdiction of the court under s. 938.12 or 938.13 (7)-~~or~~ (12) ~~or~~ (14) shall be conducted according to this subsection.

SECTION 276. 938.21 (3) (ag) of the statutes is amended to read:

938.21 (3) (ag) Proceedings concerning a juvenile who comes within the jurisdiction of the court under s. 938.13 (4), (6), (6m), ~~or~~ (14) (7) shall be conducted according to this subsection.

SECTION 277. 938.21 (3) (am) of the statutes is amended to read:

938.21 (3) (am) The parent, guardian, ~~or~~ legal custodian, ~~or Indian custodian~~ may waive his or her right to participate in the hearing under this section. After any waiver, a rehearing shall be granted at the request of the parent, guardian, legal custodian, Indian custodian, or any other interested party for good cause shown.

SECTION 278. 938.21 (3) (b) of the statutes is amended to read:

938.21 (3) (b) If present at the hearing, a copy of the petition or request shall be given to the parent, guardian, ~~or~~ legal custodian, ~~or Indian custodian~~, and to the juvenile if he or she is 12 years of age or older, before the hearing begins. Prior notice of the hearing shall be given to the juvenile's parent, guardian, ~~and~~ legal custodian, ~~and Indian custodian~~ and to the juvenile if he or she is 12 years of age or older under s. 938.20 (8).

SECTION 279. 938.21 (3) (d) of the statutes is amended to read:

938.21 (3) (d) Prior to the commencement of the hearing, the court shall inform the parent, guardian, ~~or~~ legal custodian, ~~or Indian custodian~~ of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to present, confront, and cross-examine witnesses, ~~and the right to present witnesses and, in the case of a parent or Indian custodian of an Indian juvenile who is the subject of an Indian juvenile custody proceeding, as defined in s. 938.028 (2) (b), the right to counsel under s. 938.028 (4) (b).~~

SECTION 280. 938.21 (3) (e) of the statutes is amended to read:

938.21 (3) (e) If the parent, guardian, ~~or~~ legal custodian, Indian custodian, or the juvenile is not represented by counsel at the hearing and if the juvenile is continued in custody as a result of the hearing, the parent, guardian, legal custodian, Indian custodian, or juvenile may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold the juvenile in custody be reheard. If the request is made, a rehearing shall take place as soon as possible. An order to hold the juvenile in custody shall be reheard for good cause, whether or not counsel was present.

SECTION 281. 938.21 (5) (d) 1. of the statutes is renumbered 938.21 (5) (d) and amended to read:

938.21 (5) (d) If the court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 282. 938.21 (5) (d) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 283. 938.21 (5) (d) 3. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 284. 938.23 (2g) of the statutes is created to read:

938.23 (2g) **RIGHT OF INDIAN JUVENILE'S PARENT OR INDIAN CUSTODIAN TO COUNSEL.** Whenever an Indian juvenile is the subject of a proceeding under s. 938.13 (4), (6), (6m), or (7) involving the removal of the Indian juvenile from the home of his or her parent or Indian custodian or the placement of the Indian juvenile in an out-of-home care placement, the Indian juvenile's parent or Indian custodian shall have the right to be represented by counsel as provided in sub. (4).

SECTION 285. 938.23 (3) of the statutes is amended to read:

938.23 (3) **POWER OF THE COURT TO APPOINT COUNSEL.** Except as provided in this subsection, at any time, upon request or on its own motion, the court may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes to retain counsel of his or her own choosing. ~~The Except as provided in sub. (2g), the~~ court may not appoint counsel for any party other than the juvenile in a proceeding under s. 938.13.

SECTION 286. 938.23 (4) of the statutes is amended to read:

938.23 (4) **PROVIDING COUNSEL.** If a juvenile has a right to be represented by counsel or is provided counsel at the discretion of the court under this section and counsel is not knowingly and voluntarily waived, the court shall refer the juvenile to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. In

any situation under sub. (2g) in which a parent 18 years of age or over is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent is unable to afford counsel in full, or the parent so indicates; the court shall refer the parent to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in that petition.

SECTION 287. 938.235 (4) (a) 7. of the statutes is amended to read:

938.235 (4) (a) 7. Petition for relief from a judgment terminating parental rights under s. ~~48.028~~ or 48.46.

SECTION 288. 938.24 (2r) (title) of the statutes is amended to read:

938.24 (2r) (title) ~~AMERICAN INDIAN JUVENILE; NOTIFICATION OF TRIBAL COURT.~~

SECTION 289. 938.24 (2r) (a) (intro.) of the statutes is amended to read:

938.24 (2r) (a) (intro.) If the intake worker determines as a result of the intake inquiry that the juvenile is an ~~American~~ Indian juvenile who has allegedly committed a delinquent act and that all of the following circumstances apply, the intake worker shall promptly notify the clerk of the tribal court under subd. 1., a person who serves as the tribal juvenile intake worker, or a tribal prosecuting attorney that the juvenile has allegedly committed a delinquent act under those circumstances:

SECTION 290. 938.24 (2r) (a) 1. of the statutes is amended to read:

938.24 (2r) (a) 1. At the time of the delinquent act the juvenile was under an order of a ~~tribe's~~ tribal court, other than a tribal court order relating to adoption, physical placement or visitation with the juvenile's parent, or permanent guardianship.

SECTION 291. 938.24 (2r) (a) 2. of the statutes is amended to read:

938.24 (2r) (a) 2. At the time of the delinquent act the juvenile was physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe of the tribal court and any off-reservation trust land of either that Indian tribe or a member of that Indian tribe as a direct consequence of a tribal court order under subd. 1., including a tribal court order placing the juvenile in the home of a relative of the juvenile who on or after the date of the tribal court order resides physically outside the boundaries of a reservation and off-reservation trust land.

SECTION 292. 938.24 (2r) (b) of the statutes is amended to read:

938.24 (2r) (b) If the intake worker is notified by an official of the Indian tribe that a petition relating to the delinquent act has been or may be filed in tribal court, the intake worker shall consult with tribal officials, unless the intake worker determines under sub. (4) that the case should be closed. After the consultation, the intake worker shall determine whether the best interests of the juvenile and of the public would be served by having the matter proceed solely in tribal court. If the intake worker determines that the best interests of the juvenile and of the public would be served by having the matter proceed solely in tribal court, the intake worker shall close the case. If the intake worker determines that the best interests of the juvenile and of the public would not be served by having the matter proceed solely in tribal court, the intake worker shall proceed under sub. (3) or (4).

SECTION 293. 938.243 (1) (e) of the statutes is amended to read:

938.243 (1) (e) The right of the juvenile to counsel under s. 938.23.

SECTION 294. 938.25 (2g) (title) of the statutes is amended to read:

938.25 (2g) (title) ~~AMERICAN INDIAN JUVENILE; CONSULTATION WITH TRIBAL COURT.~~

SECTION 295. 938.255 (1) (cm) of the statutes is amended to read:

938.255 (1) (cm) If the petition is initiating proceedings ~~other than proceedings under s. 938.12, 938.125 or 938.13 (12) under s. 938.13 (4), (6), (6m), or (7),~~ whether the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the juvenile may be subject to that act, the names and addresses of the juvenile's Indian custodian, if any, and Indian tribe, if known.

SECTION 296. 938.255 (1) (cr) 1. a. of the statutes is amended to read:

938.255 (1) (cr) 1. a. The juvenile is an ~~American~~ Indian juvenile.

SECTION 297. 938.255 (1) (cr) 1. b. of the statutes is amended to read:

938.255 (1) (cr) 1. b. At the time of the alleged delinquent act, the juvenile was under an order of a ~~tribe's tribal~~ court, other than a tribal court order relating to adoption, physical placement or visitation with the juvenile's parent, or permanent guardianship.

SECTION 298. 938.255 (1) (cr) 1. c. of the statutes is amended to read:

938.255 (1) (cr) 1. c. At the time of the delinquent act the juvenile was physically outside the boundaries of ~~that tribe's the reservation of the Indian tribe of the tribal court~~ and any off-reservation trust land of either that Indian tribe or a member of that Indian tribe as a direct consequence of a tribal court order under subd. 1. b., including a tribal court order placing the juvenile in the home of a relative of the juvenile who on or after the date of the

tribal court order resides physically outside the boundaries of a reservation and off-reservation trust land.

SECTION 299. 938.255 (1) (cr) 2. of the statutes is amended to read:

938.255 (1) (cr) 2. If the statement under subd. 1. is included in the petition and if the intake worker, district attorney, or corporation counsel has been notified by an official of the Indian tribe that a petition relating to the delinquent act has been or may be filed in tribal court with respect to the alleged delinquent act, a statement to that effect.

SECTION 300. 938.255 (1) (g) of the statutes is created to read:

938.255 (1) (g) If the petitioner knows or has reason to know that the juvenile is an Indian juvenile, if the juvenile is alleged to come within the provisions of s. 938.13 (4), (6), (6m), or (7), and if the juvenile has been removed from the home of his or her parent or Indian custodian, reliable and credible information showing that continued custody of the juvenile by the juvenile's parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and reliable and credible information showing that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. The petition shall set forth with specificity both the information required under this paragraph and the information required under par. (f).

SECTION 301. 938.255 (2) of the statutes is amended to read:

938.255 (2) If any of the facts in sub. (1) (a) to (cr) ~~and, (f), and (g)~~ are not known or cannot be ascertained by the petitioner, the petition shall so state.

SECTION 302. 938.255 (4) of the statutes is amended to read:

938.255 (4) COPY TO JUVENILE, PARENTS, AND OTHERS. A copy of the petition shall be given to the juvenile and to the parents, guardian, legal custodian and physical custodian. If the juvenile is an Indian juvenile who is alleged to come within the provisions of s. 938.13 (4), (6), (6m), or (7), and who has been removed from the home of his or her parent or Indian custodian, a copy of the petition shall also be given to the Indian juvenile's Indian custodian and tribe.

SECTION 303. 938.27 (3) (a) 1. of the statutes is amended to read:

938.27 (3) (a) 1. The court shall notify, under s. 938.273, the juvenile, any parent, guardian, and legal custodian of the juvenile, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile, and any person specified in par. (b) ~~or (d)~~, if applicable, of all hearings involving the juvenile under this subchapter, except hearings on motions for which notice must be provided only to the juvenile

and his or her counsel. If parents entitled to notice have the same place of residence, notice to one constitutes notice to the other. The first notice to any interested party, foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) shall be in writing and may have a copy of the petition attached to it. Notices of subsequent hearings may be given by telephone at least 72 hours before the time of the hearing. The person giving telephone notice shall place in the case file a signed statement of the date and time notice was given and the person to whom he or she spoke.

SECTION 304. 938.27 (3) (a) 1. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.27 (3) (a) 1. The court shall notify, under s. 938.273, the juvenile, any parent, guardian, and legal custodian of the juvenile, any foster parent or other physical custodian described in s. 48.62 (2) of the juvenile, and any person specified in par. (b) or (d), if applicable, of all hearings involving the juvenile under this subchapter, except hearings on motions for which notice must be provided only to the juvenile and his or her counsel. If parents entitled to notice have the same place of residence, notice to one constitutes notice to the other. The first notice to any interested party, foster parent, or other physical custodian described in s. 48.62 (2) shall be in writing and may have a copy of the petition attached to it. Notices of subsequent hearings may be given by telephone at least 72 hours before the time of the hearing. The person giving telephone notice shall place in the case file a signed statement of the date and time notice was given and the person to whom he or she spoke.

SECTION 305. 938.27 (3) (d) of the statutes is created to read:

938.27 (3) (d) If the petition that was filed relates to facts concerning a situation under s. 938.13 (4), (6), (6m), or (7) involving an Indian juvenile who has been removed from the home of his or her parent or Indian custodian, the court shall notify, under s. 938.273, the Indian juvenile's Indian custodian and tribe and that Indian custodian or tribe may intervene at any point in the proceeding.

SECTION 306. 938.27 (4) (b) of the statutes is amended to read:

938.27 (4) (b) Advise the juvenile and any other party, if applicable, of his or her right to legal counsel regardless of ability to pay.

SECTION 307. 938.273 (1) (a) of the statutes of the statutes is amended to read:

938.273 (1) (a) Service Except as provided in pars. (ag), (ar), and (b), service of summons or notice required by s. 938.27 may be made by mailing a copy of the summons or notice to the persons person summoned or notified. If

(ar) Except as provided in par. (b), if the persons person, other than a person specified in s. 938.27 (4m), fail

fails to appear at the hearing or otherwise to acknowledge service, a continuance shall be granted, except as provided under par. (b), and service shall be made personally by delivering to the persons person a copy of the summons or notice; except that if the court determines that it is impracticable to serve the summons or notice personally, it the court may order service by certified mail addressed to the last-known addresses address of the persons person.

SECTION 308. 938.273 (1) (ag) of the statutes is created to read:

938.273 (1) (ag) In a situation described in s. 938.27 (3) (d), service of summons or notice required by s. 938.27 to an Indian juvenile's parent, Indian custodian, or tribe shall be made as provided in s. 938.028 (4) (a).

SECTION 309. 938.273 (1) (b) of the statutes is amended to read:

938.273 (1) (b) The court may refuse to grant a continuance when the juvenile is being held in secure custody, but if the court so refuses, it the court shall order that service of notice of the next hearing be made personally or by certified mail to the last-known address of the person who failed to appear at the hearing.

SECTION 310. 938.273 (1) (c) of the statutes is renumbered 938.273 (1) (c) (intro.) and amended to read:

938.273 (1) (c) (intro.) Personal service shall be made at least 72 hours before the hearing. Mail shall be sent at least 7 days before the hearing, except that when as follows:

1. When the petition is filed under s. 938.13 and the person to be notified lives outside the state, the mail shall be sent at least 14 days before the hearing.

SECTION 311. 938.273 (1) (c) 2. of the statutes is created to read:

938.273 (1) (c) 2. When a petition under s. 938.13 (4), (6), (6m), or (7) involves an Indian juvenile who has been removed from the home of his or her parent or Indian custodian and the person to be notified is the Indian juvenile's parent, Indian custodian, or tribe, the mail shall be sent so that it is received by the person to be notified at least 10 days before the hearing or, if the identity or location of the person to be notified cannot be determined by the U.S. secretary of the interior at least 15 days before the hearing.

SECTION 312. 938.299 (6) (d) of the statutes is amended to read:

938.299 (6) (d) The court may stay the proceedings under this chapter pending the outcome of the paternity proceedings under subch. IX of ch. 767 if the court determines that the paternity proceedings will not unduly delay the proceedings under this chapter and the determination of paternity is necessary to the court's disposition of the juvenile if the juvenile is found to be in need of protection or services or if the court determines or has reason to know that the paternity proceedings may result in a finding that the juvenile is an Indian juvenile and in

a petition by the juvenile's parent, Indian custodian, or tribe for transfer of the proceeding to the jurisdiction of the tribe.

SECTION 313. 938.299 (9) (title) of the statutes is amended to read:

938.299 (9) (title) ~~AMERICAN INDIAN JUVENILE; TRIBAL COURT INVOLVEMENT.~~

SECTION 314. 938.299 (9) (a) of the statutes is amended to read:

938.299 (9) (a) If a petition under s. 938.12 or 938.13 (12) includes the statement in s. 938.255 (1) (cr) 2. or if the court is informed during a proceeding under s. 938.12 or 938.13 (12) that a petition relating to the delinquent act has been filed in a ~~tribe's~~ tribal court with respect to a juvenile to whom the circumstances specified in s. 938.255 (1) (cr) 1. apply, the court shall stay the proceeding and communicate with the tribal court in which the other proceeding is or may be pending to discuss which court is the more appropriate forum.

SECTION 315. 938.299 (10) of the statutes is created to read:

938.299 (10) If at any point in a proceeding under s. 938.13 (4), (6), (6m), or (7) the court determines or has reason to know that the juvenile is an Indian juvenile, the court shall provide notice of the proceeding to the juvenile's parent, Indian custodian, and tribe in the manner specified in s. 938.028 (4) (a). The next hearing in the proceeding may not be held until at least 10 days after receipt of the notice by the parent, Indian custodian, and tribe or, if the identity or location of the parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for that hearing.

SECTION 316. 938.30 (1) of the statutes is amended to read:

938.30 (1) **TIME OF HEARING.** Except as provided in this subsection and s. 938.299 (10), the hearing to determine the juvenile's plea to a citation or a petition under s. 938.12, 938.125, or 938.13 (12) or (14), or to determine whether any party wishes to contest an allegation that the juvenile is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) ~~or (14)~~ shall take place on a date which allows reasonable time for the parties to prepare but is within 30 days after the filing of a petition or issuance of a citation for a juvenile who is not being held in secure custody or within 10 days after the filing of a petition or issuance of a citation for a juvenile who is being held in secure custody. In a municipal court operated jointly by 2 or more cities, towns or villages under s. 755.01 (4), the hearing to determine the juvenile's plea shall take place within 45 days after the filing of a petition or issuance of a citation for a juvenile who is not being held in secure custody.

SECTION 317. 938.30 (2) of the statutes is amended to read:

938.30 (2) **INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS; SUBSTITUTION.** At or before the commencement of the hearing under this section the juvenile and the parent, guardian, ~~or~~ legal custodian, or Indian custodian shall be advised of their rights as specified in s. 938.243 and shall be informed that the hearing shall be to the court and that a request for a substitution of judge under s. 938.29 must be made before the end of the plea hearing or is waived. Nonpetitioning parties, including the juvenile, shall be granted a continuance of the plea hearing if they wish to consult with an attorney on the request for a substitution of a judge.

SECTION 318. 938.30 (6) (a) of the statutes is amended to read:

938.30 (6) (a) If a petition is not contested, the court, subject to s. 938.299 (10), shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than 10 days from the plea hearing for a juvenile who is held in secure custody and no more than 30 days from the plea hearing for a juvenile who is not held in secure custody. If Subject to s. 938.299 (10), if all parties consent, the court may proceed immediately with the dispositional hearing. If a citation is not contested, the court may proceed immediately to enter a dispositional order.

SECTION 319. 938.30 (7) of the statutes is amended to read:

938.30 (7) **CONTESTED PETITIONS OR CITATIONS; DATE FOR FACT-FINDING HEARING.** If the petition or citation is contested, the court, subject to s. 938.299 (10), shall set a date for the fact-finding hearing that allows a reasonable time for the parties to prepare but is no more than 20 days ~~from~~ after the plea hearing for a juvenile who is held in secure custody and no more than 30 days ~~from~~ after the plea hearing for a juvenile who is not held in secure custody.

SECTION 320. 938.305 of the statutes is amended to read:

938.305 Hearing upon the involuntary removal of a juvenile. Notwithstanding other time periods for hearings under this chapter, if a juvenile is removed from the physical custody of the juvenile's parent or guardian under s. 938.19 (1) (c) or (d) 5. without the consent of the parent or guardian, the court, subject to s. 938.299 (10), shall schedule a plea hearing and fact-finding hearing within 30 days after a request from the parent or guardian from whom custody was removed. The plea hearing and fact-finding hearing may be combined. This time period may be extended only with the consent of the requesting parent or guardian.

SECTION 321. 938.31 (5) of the statutes is created to read:

938.31 (5) If the juvenile is an Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or

(7), the court shall also determine at the fact-finding hearing whether continued custody of the Indian juvenile by the Indian juvenile's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian juvenile under s. 938.028 (4) (d) 1. and whether active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and whether those efforts have proved unsuccessful, unless partial summary judgment on the allegations under s. 938.13 (4), (6), (6m), or (7) is granted, in which case the court shall make those determinations at the dispositional hearing.

SECTION 322. 938.31 (7) (a) of the statutes is amended to read:

938.31 (7) (a) At the close of the fact-finding hearing, the court, subject to s. 938.299 (10), shall set a date for the dispositional hearing that allows a reasonable time for the parties to prepare but is no more than 10 days after the fact-finding hearing for a juvenile in secure custody and no more than 30 days after the fact-finding hearing for a juvenile not held in secure custody. If Subject to s. 938.299 (10), if all parties consent, the court may immediately proceed with a dispositional hearing.

SECTION 323. 938.315 (1) (a) 11. of the statutes is created to read:

938.315 (1) (a) 11. A continuance, not to exceed 20 days, granted at the request of the parent, Indian custodian, or tribe of a juvenile whom the court knows or has reason to know is an Indian juvenile to enable the requester to prepare for a proceeding under s. 938.13 (4), (6), (6m), or (7) involving the out-of-home care placement of the juvenile.

SECTION 324. 938.32 (1) (d) 1. of the statutes is renumbered 938.32 (1) (d) and amended to read:

938.32 (1) (d) If the court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~The agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 325. 938.32 (1) (d) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 326. 938.32 (1) (d) 3. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 327. 938.32 (1) (e) of the statutes is created to read:

938.32 (1) (e) 1. In the case of an Indian juvenile who is the subject of a proceeding under s. 938.13 (4), (6), (6m), or (7), if at the time the consent decree is entered into the Indian juvenile is placed outside the home of his or her parent or Indian custodian under a voluntary agreement under s. 48.63 or is otherwise living outside that home without a court order and if the consent decree maintains the Indian juvenile in that placement or other

living arrangement, the consent decree shall include a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 938.028 (4) (d) 1. and a finding that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. The findings under this subdivision shall be in addition to the findings under par. (c) 1., except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under [42 USC 670 to 679b](#), the findings under this subdivision and the findings under par. (c) 1. shall be considered to be the same findings.

2. If the placement or other living arrangement under subd. 1. departs from the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), the court shall also find good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 328. 938.33 (4) (d) of the statutes is created to read:

938.33 (4) (d) In the case of a proceeding under s. 938.13 (4), (6), (6m), or (7), if the agency knows or has reason to know that the juvenile is an Indian juvenile who is being removed from the home of his or her parent or Indian custodian, a description of any efforts undertaken to determine whether the juvenile is an Indian juvenile; specific information showing that continued custody of the juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile, under s. 938.028 (4) (d) 1.; specific information showing that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful; a statement as to whether the out-of-home care placement recommended is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b); and, if the recommended placement is not in compliance with that order, specific information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 329. 938.335 (3j) of the statutes is created to read:

938.335 (3j) INDIAN JUVENILE; ACTIVE EFFORTS FINDING. At hearings under this section involving an Indian juvenile who is the subject of a proceeding under s. 938.13 (4), (6), (6m), or (7), if the agency, as defined in s. 938.38 (1) (a), is recommending removal of the Indian juvenile from the home of his or her parent or Indian custodian and placement of the Indian juvenile in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent, the agency shall present as evidence specific information showing all of the following:

(a) That continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian juvenile under s. 938.028 (4) (d) 1.

(b) That active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful.

(c) That the placement recommended is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) or, if that placement is not in compliance with that order, good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 330. 938.335 (3j) (intro.) of the statutes, as created by 2009 Wisconsin Act (this act), is amended to read:

938.335 (3j) (intro.) INDIAN JUVENILE; ACTIVE EFFORTS FINDING. At hearings under this section involving an Indian juvenile who is the subject of a proceeding under s. 938.13 (4), (6), (6m), or (7), if the agency, as defined in s. 938.38 (1) (a), is recommending removal of the Indian juvenile from the home of his or her parent or Indian custodian and placement of the Indian juvenile in a foster home, ~~treatment foster home~~, group home, or residential care center for children and youth or in the home of a relative other than a parent, the agency shall present as evidence specific information showing all of the following:

SECTION 331. 938.345 (1m) of the statutes is created to read:

938.345 (1m) INDIAN JUVENILE; PLACEMENT PREFERENCES. (a) Subject to s. 938.028 (6) (b), if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) and who is being removed from the home of his or her parent or Indian custodian and placed outside that home, the court shall designate one of the placements specified in s. 938.028 (6) (a) 1. to 4. as the placement for the Indian juvenile, in the order of preference listed, unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 332. 938.355 (2) (b) 6v. of the statutes is created to read:

938.355 (2) (b) 6v. If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) and who is being removed from the home of his or her parent or Indian custodian and placed outside that home, a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and a finding that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful.

The findings under this subdivision shall be in addition to the findings under subd. 6., except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under [42 USC 670](#) to [679b](#), the findings under this subdivision and the findings under subd. 6. shall be considered to be the same findings. The findings under this subdivision are not required if they were made in a previous order in the proceeding unless a change in circumstances warrants new findings.

SECTION 333. 938.355 (2) (d) of the statutes is amended to read:

938.355 (2) (d) The court shall provide a copy of the dispositional order to the juvenile's parent, guardian, legal custodian, or trustee and, if the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian and placed outside that home under s. 938.13 (4), (6), (6m), or (7), to the Indian juvenile's Indian custodian and tribe.

SECTION 334. 938.355 (2d) (c) 1. of the statutes is renumbered 938.355 (2d) (c) and amended to read:

938.355 (2d) (c) If the court finds that any of the circumstances under par. (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 335. 938.355 (2d) (c) 2. of the statutes, as affected by [2009 Wisconsin Act 28](#), is repealed.

SECTION 336. 938.355 (2d) (c) 3. of the statutes, as affected by [2009 Wisconsin Act 28](#), is repealed.

SECTION 337. 938.355 (2d) (d) of the statutes is created to read:

938.355 (2d) (d) This subsection does not affect the requirement under sub. (2) (b) 6v. that the court include in a dispositional order removing an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from the home of his or her parent or Indian custodian and placing the juvenile outside that home a finding that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful.

SECTION 338. 938.355 (6) (an) 1. of the statutes is amended to read:

938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction under par. (d) 1. or the sanction under par. (d) 3., with monitoring by an electronic

monitoring system. A sanction may be imposed under this subdivision only if, at the time of the judgment, the municipal court explained the conditions to the juvenile and informed the juvenile of those possible sanctions for a violation or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1911 to 1963, and, if the juvenile may be subject to that act, the names and addresses of the juvenile's Indian custodian, if any, and tribe, if known.

SECTION 339. 938.355 (6) (b) of the statutes is amended to read:

938.355 (6) (b) *Motion to impose sanction.* A motion for imposition of a sanction may be brought by the person or agency primarily responsible for the provision of dispositional services, the district attorney or corporation counsel, or the court that entered the dispositional order. If the court initiates the motion, that court is disqualified from holding a hearing on the motion. Notice of the motion shall be given to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian, and all parties present at the original dispositional hearing. The motion shall contain a statement of whether the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1911 to 1963 and, if the juvenile may be subject to that act, the names and addresses of the juvenile's Indian custodian, if any, and tribe, if known.

SECTION 340. 938.355 (6) (bm) of the statutes is created to read:

938.355 (6) (bm) *Indian juvenile; notice.* If the person initiating the motion knows or has reason to know that the juvenile is an Indian juvenile who has been found to be in need of protection or services under s. 938.13 (4), (6m), or (7) or who has been adjudged to have violated a civil law or ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), and if the motion is seeking removal of the juvenile from the home of his or her parent or Indian custodian and placement of the juvenile in a place of nonsecure custody specified in par. (d) 1., notice under par. (b) to the Indian juvenile's parent shall be provided in the manner specified in s. 938.028 (4) (a). In like manner, the court shall also notify the Indian juvenile's Indian custodian and tribe. No hearing may be held under par. (c) until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or, if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 341. 938.355 (6) (cr) of the statutes is created to read:

938.355 (6) (cr) *Indian juvenile; findings.* In the case of an Indian juvenile who has been found to be in need of protection or services under s. 938.13 (4), (6m), or (7) or who has been adjudged to have violated a civil law or ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), the court may not order the sanction of removal from the home of the Indian juvenile's parent or Indian custodian and placement in a place of nonsecure custody specified in par. (d) 1., unless the court finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and the court finds that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. These findings are not required if they were made in the dispositional order under which the juvenile is being sanctioned. The findings under this paragraph shall be in addition to the findings under par. (cm), except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under 42 USC 670 to 679b, the findings under this paragraph and the findings under par. (cm) shall be considered to be the same findings.

SECTION 342. 938.355 (6m) (am) 1. of the statutes is amended to read:

938.355 (6m) (am) 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at the time of the judgment the municipal court explained the conditions to the juvenile and informed the juvenile of that possible sanction or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible sanction and that he or she understands those conditions and that possible sanction. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1911 to 1963, and, if the juvenile may be subject to that act, the names and addresses of the juvenile's Indian custodian, if any, and tribe, if known.

SECTION 343. 938.355 (6m) (bm) of the statutes is created to read:

938.355 (6m) (bm) *Indian juvenile; notice.* If the person initiating the motion knows or has reason to know that the juvenile is an Indian juvenile who has been found to be in need of protection or services under s. 938.13 (6)

or who has been adjudged to have violated an ordinance enacted under s. 118.163 (2), and if the motion is seeking removal of the juvenile from the home of his or her parent or Indian custodian and placement in a place of nonsecure custody specified in par. (a) 1g., notice under par. (b) to the Indian juvenile's parent shall be provided in the manner specified in s. 938.028 (4) (a). In like manner, the court shall also notify the Indian juvenile's Indian custodian and tribe. No hearing may be held under par. (c) until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or, if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 344. 938.355 (6m) (c) of the statutes is amended to read:

938.355 (6m) (c) *Sanction hearing.* Before imposing a sanction under par. (a) or (ag), the court shall hold a hearing at which the juvenile is entitled to be represented by legal counsel and to present evidence. The Except as provided in par. (bm), the hearing shall be held within 15 days after the filing of a motion under par. (b).

SECTION 345. 938.355 (6m) (cr) of the statutes is created to read:

938.355 (6m) (cr) *Indian juvenile; findings.* In the case of an Indian juvenile who has been found to be in need of protection or services under s. 938.13 (6) or who has been adjudged to have violated an ordinance enacted under s. 118.163 (2), the court may not order the sanction of removal from the home of the Indian juvenile's parent or Indian custodian and placement in a place of nonsecure custody specified in par. (a) 1g., unless the court finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and the court finds that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. These findings are not required if they were made in the dispositional order under which the juvenile is being sanctioned. The findings under this paragraph shall be in addition to the findings under par. (cm), except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under [42 USC 670 to 679b](#), the findings under this paragraph and the findings under par. (cm) shall be considered to be the same findings.

SECTION 346. 938.357 (1) (am) 1. of the statutes is amended to read:

938.357 (1) (am) 1. If the proposed change in placement involves any change in placement other than a change in placement under par. (c), the person or agency primarily responsible for implementing the dispositional order or the district attorney shall cause written notice of the proposed change in placement to be sent to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile. If the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), written notice shall also be sent to the Indian juvenile's Indian custodian and tribe. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

SECTION 347. 938.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.357 (1) (am) 1. If the proposed change in placement involves any change in placement other than a change in placement under par. (c), the person or agency primarily responsible for implementing the dispositional order or the district attorney shall cause written notice of the proposed change in placement to be sent to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any foster parent or other physical custodian described in s. 48.62 (2) of the juvenile. If the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), written notice shall also be sent to the Indian juvenile's Indian custodian and tribe. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

SECTION 348. 938.357 (1) (am) 1g. of the statutes is created to read:

938.357 (1) (am) 1g. If the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), and if the proposed change in placement would change the Indian juvenile's placement from a placement outside that home to another placement outside that home, a notice under subd. 1. shall also contain a statement as to whether the new placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that order, specific

information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 349. 938.357 (1) (am) 2. of the statutes is amended to read:

938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the court within 10 days after receipt of the notice. Placements may not be changed until 10 days after that notice is sent to the court unless the parent, guardian, or legal custodian and, or Indian custodian, the juvenile, if 12 or more years of age, and the juvenile's tribe, if the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), sign written waivers of objection, except that changes in placement that were authorized in the dispositional order may be made immediately if notice is given as required under subd. 1. In addition, a hearing is not required for placement changes authorized in the dispositional order except when an objection filed by a person who received notice alleges that new information is available that affects the advisability of the court's dispositional order.

SECTION 350. 938.357 (1) (am) 2. of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of a specific placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the court within 10 days after receipt of the notice. Placements may not be changed until 10 days after that notice is sent to the court unless the parent, guardian, legal custodian, or Indian custodian, the juvenile, if 12 or more years of age, and the juvenile's tribe, if the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), sign written waivers of objection, except that changes in placement that were authorized in the dispositional order may be made immediately if notice is given as required under subd. 1. In addition, a hearing is not required for placement changes authorized in the dispositional order except when an objection filed by a person who received notice alleges that new information is available that affects the advisability of the court's dispositional order.

SECTION 351. 938.357 (1) (am) 3. of the statutes is amended to read:

938.357 (1) (am) 3. If the court changes the juvenile's placement from a placement outside the home to another placement outside the home, the change in placement order shall contain the applicable order under sub. (2v) (a) 1m. and the applicable statement under sub. (2v) (a) 2. If the court changes the placement of an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m),

or (7) from a placement outside that home to another placement outside that home, the change in placement order shall, in addition, comply with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 352. 938.357 (1) (c) 1m. of the statutes is created to read:

938.357 (1) (c) 1m. If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), and if the proposed change in placement would change the placement of the juvenile from a placement in the home of his or her parent or Indian custodian to a placement outside that home, a request under subd. 1. shall also contain specific information showing that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1., specific information showing that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful, a statement as to whether the new placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 353. 938.357 (1) (c) 2. of the statutes is amended to read:

938.357 (1) (c) 2. The court shall hold a hearing prior to ordering a change in placement requested under subd. 1. At least 3 days prior to the hearing, the court shall provide notice of the hearing, together with a copy of the request for the change in placement, to the juvenile, the parent, guardian, and legal custodian of the juvenile, and all parties that are bound by the dispositional order. If, and, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. Subject to subd. 2m., if all parties consent, the court may proceed immediately with the hearing.

SECTION 354. 938.357 (1) (c) 2m. of the statutes is created to read:

938.357 (1) (c) 2m. In a proceeding involving an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), if the proposed change in placement would change the placement of the juvenile from a placement in the home of his or her parent or Indian custodian to a placement outside that home notice under subd. 2. to the Indian juvenile's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 938.028 (4) (a). No hearing on the request may be held until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custo-

dian, and tribe or, if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 355. 938.357 (1) (c) 3. of the statutes is amended to read:

938.357 (1) (c) 3. If the court changes the juvenile's placement from a placement in the juvenile's home to a placement outside the juvenile's home, the change in placement order shall contain the findings under sub. (2v) (a) 1., the applicable order under sub. (2v) (a) 1m., the applicable statement under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination under sub. (2v) (a) 3. If the court changes the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement in the home of his or her parent or Indian custodian to a placement outside that home, the change in placement order shall contain the findings under sub. (2v) (a) 4. and comply with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 356. 938.357 (2m) (a) of the statutes is amended to read:

938.357 (2m) (a) *Request; information required.* The juvenile, the parent, guardian, or legal custodian of the juvenile, or any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order, or, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian may request a change in placement under this paragraph. The request shall contain the name and address of the new placement requested and shall state what new information is available that affects the advisability of the current placement. If the proposed change in placement would change the placement of a juvenile placed in the juvenile's home to a placement outside the home, the request shall also contain specific information showing that continued placement of the juvenile in the juvenile's home would be contrary to the welfare of the juvenile and, unless any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing that the agency primarily responsible for implementing the dispositional order has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns. The request shall be submitted to the court. The court may also propose a change in placement on its own motion.

SECTION 357. 938.357 (2m) (am) of the statutes is created to read:

938.357 (2m) (am) *Indian juvenile; information required.* 1. If the proposed change of placement would change the placement of an Indian juvenile placed in the home of his or her parent or Indian custodian under s. 938.357 (4), (6), (6m), or (7) to a placement outside that home, a request under par. (a) shall also contain specific information showing that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1., specific information showing that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful, a statement as to whether the new placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

2. If the proposed change in placement would change the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement outside the home of his or her parent or Indian custodian to another placement outside that home, a request under par. (a) shall also contain a statement as to whether the new placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 358. 938.357 (2m) (b) of the statutes is amended to read:

938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior to ordering any change in placement requested or proposed under par. (a) if the request states that new information is available that affects the advisability of the current placement. A hearing is not required if the requested or proposed change in placement does not involve a change in placement of a juvenile placed in the juvenile's home to a placement outside the juvenile's home, written waivers of objection to the proposed change in placement are signed by all parties entitled to receive notice under sub. (1) ~~(am)~~ 1. this paragraph, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the court shall notify the juvenile, the parent, guardian, and legal custodian of the juvenile, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile, and all parties who are bound by the dispositional order at least 3 days prior to the hearing, and, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or

(7), the Indian juvenile's Indian custodian and tribe. A copy of the request or proposal for the change in placement shall be attached to the notice. If Subject to par. (bm), if all of the parties consent, the court may proceed immediately with the hearing.

SECTION 359. 938.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior to ordering any change in placement requested or proposed under par. (a) if the request states that new information is available that affects the advisability of the current placement. A hearing is not required if the requested or proposed change in placement does not involve a change in placement of a juvenile placed in the juvenile's home to a placement outside the juvenile's home, written waivers of objection to the proposed change in placement are signed by all parties entitled to receive notice under this paragraph, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the court shall notify the juvenile, the parent, guardian, and legal custodian of the juvenile, any foster parent or other physical custodian described in s. 48.62 (2) of the juvenile, all parties who are bound by the dispositional order, and, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. A copy of the request or proposal for the change in placement shall be attached to the notice. Subject to par. (bm), if all of the parties consent, the court may proceed immediately with the hearing.

SECTION 360. 938.357 (2m) (bm) of the statutes is created to read:

938.357 (2m) (bm) *Indian juvenile; notice.* If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), and if the proposed change in placement would change the placement of the Indian juvenile from a placement in the home of his or her parent or Indian custodian to a placement outside that home, notice under par. (b) to the Indian juvenile's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 938.028 (4) (a). No hearing on the request or proposal may be held until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or, if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 361. 938.357 (2m) (c) of the statutes is renumbered 938.357 (2m) (c) 1. and amended to read:

938.357 (2m) (c) *Findings required.* 1. If the court changes the juvenile's placement from a placement in the

juvenile's home to a placement outside the juvenile's home, the change in placement order shall contain the findings under sub. (2v) (a) 1., the applicable order under sub. (2v) (a) 1m., the applicable statement under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination under sub. (2v) (a) 3. If the court changes the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement in the home of his or her parent or Indian custodian to a placement outside that home, the change in placement order shall, in addition, contain the findings under sub. (2v) (a) 4. and comply with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from that order.

2. If the court changes the juvenile's placement from a placement outside the home to another placement outside the home, the change in placement order shall contain the applicable order under sub. (2v) (a) 1m. and the applicable statement under sub. (2v) (a) 2. If the court changes the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement outside the home of his or her parent or Indian custodian to another placement outside that home, the change in placement order shall, in addition, comply with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from the order.

SECTION 362. 938.357 (2v) (a) 4. of the statutes is created to read:

938.357 (2v) (a) 4. If the change in placement order changes the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement in the home of his or her parent or Indian custodian to a placement outside that home, a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and a finding that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. The findings under this subdivision shall be in addition to the findings under subd. 1., except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under 42 USC 670 to 679b, the findings under this subdivision and the findings under subd. 1. shall be considered to be the same findings. The findings under this subdivision are not required if they were made in a previous order in the pro-

ceeding unless a change in circumstances warrants new findings.

SECTION 363. 938.357 (2v) (c) 1. of the statutes is renumbered 938.357 (2v) (c) and amended to read:

938.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this paragraph, the agency responsible for preparing the permanency plan shall file the permanency plan with the court at least 5 days before the date of the hearing.~~

SECTION 364. 938.357 (2v) (c) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 365. 938.357 (2v) (c) 3. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 366. 938.363 (1) (a) of the statutes is amended to read:

938.363 (1) (a) A juvenile, the juvenile's parent, guardian, or legal custodian, any person or agency bound by a dispositional order, ~~or~~ the district attorney or corporation counsel in the county in which the dispositional order was entered or, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian may request a revision in the order that does not involve a change in placement, including a revision with respect to the amount of child support to be paid by a parent. The court may also propose a revision. The request or court proposal shall set forth in detail the nature of the proposed revision and what new information is available that affects the advisability of the court's disposition. The request or court proposal shall be submitted to the court. The court shall hold a hearing on the matter prior to any revision of the dispositional order if the request or court proposal indicates that new information is available that affects the advisability of the court's dispositional order, unless written waivers of objections to the revision are signed by all parties entitled to receive notice and the court approves.

SECTION 367. 938.363 (1) (b) of the statutes is amended to read:

938.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court shall notify the juvenile, the juvenile's parent, guardian, and legal custodian, all parties bound by the dispositional order, the juvenile's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), and the district attorney or corporation counsel in the county in which the dispositional order was entered ~~at least 3 days prior to the hearing.~~ If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian juvenile's Indian custodian and, if that juvenile is placed outside the home of his or her parent or Indian custodian, the Indian juvenile's

tribe. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order, or revise an original order under s. 938.34 (3) (f) or (6) (am) to impose more than a total of 30 days of detention, nonsecure custody, or inpatient treatment on a juvenile.

SECTION 368. 938.363 (1) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court shall notify the juvenile, the juvenile's parent, guardian, and legal custodian, all parties bound by the dispositional order, the juvenile's foster parent or other physical custodian described in s. 48.62 (2), and the district attorney or corporation counsel in the county in which the dispositional order was entered. If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian juvenile's Indian custodian and, if that juvenile is placed outside the home of his or her parent or Indian custodian, the Indian juvenile's tribe. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order, or revise an original order under s. 938.34 (3) (f) or (6) (am) to impose more than a total of 30 days of detention, nonsecure custody, or inpatient treatment on a juvenile.

SECTION 369. 938.365 (1m) of the statutes is amended to read:

938.365 (1m) REQUEST FOR EXTENSION. The parent, juvenile, guardian, legal custodian, any person or agency bound by the dispositional order, the district attorney or corporation counsel in the county in which the dispositional order was entered, ~~or~~ the court on its own motion, or, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian may request an extension of an order under s. 938.355. The request shall be submitted to the court ~~which that~~ entered the order. An order under s. 938.355 for placement of a juvenile in detention, nonsecure custody, or inpatient treatment under s. 938.34 (3) (f) or (6) (am) may not be extended. Other orders or portions of orders under s. 938.355 may be extended only as provided in this section.

SECTION 370. 938.365 (2) of the statutes is amended to read:

938.365 (2) NOTICE. No order may be extended without a hearing. The court shall ~~notify~~ provide notice of the time and place of the hearing to the juvenile or the juvenile's guardian ad litem or counsel, the juvenile's parent, guardian, and legal custodian, all of the parties present at the original hearing, the juvenile's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), and the district attorney or corporation

counsel in the county in which the dispositional order was entered ~~of the time and place of the hearing. If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian juvenile's Indian custodian and, if that juvenile is placed outside the home of his or her parent or Indian custodian, the Indian juvenile's tribe.~~

SECTION 371. 938.365 (2) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.365 (2) NOTICE. No order may be extended without a hearing. The court shall provide notice of the time and place of the hearing to the juvenile or the juvenile's guardian ad litem or counsel, the juvenile's parent, guardian, and legal custodian, all of the parties present at the original hearing, the juvenile's foster parent or other physical custodian described in s. 48.62 (2), and the district attorney or corporation counsel in the county in which the dispositional order was entered. If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian juvenile's Indian custodian and, if that juvenile is placed outside the home of his or her parent or Indian custodian, the Indian juvenile's tribe.

SECTION 372. 938.365 (2g) (b) 4. of the statutes is created to read:

938.365 (2g) (b) 4. If the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), specific information showing that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful.

SECTION 373. 938.365 (2m) (a) 1. of the statutes is amended to read:

938.365 (2m) (a) 1. Any party may present evidence relevant to the issue of extension. If the juvenile is placed outside of his or her home, the person or agency primarily responsible for providing services to the juvenile shall present as evidence specific information showing that the person or agency has made reasonable efforts to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies. If an Indian juvenile is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the person or agency primarily responsible for providing services to the Indian juvenile shall also present as evidence specific information showing that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful.

1m. The court shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts

were made by the agency primarily responsible for providing services to the juvenile to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies. If the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the findings of fact shall also include a finding that active efforts under s. 938.028 (4) (d) 2. were made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. An order shall be issued under s. 938.355.

SECTION 374. 938.365 (2m) (a) 3. of the statutes is amended to read:

938.365 (2m) (a) 3. The court shall make the findings under subd. 1. 1m. relating to reasonable efforts to achieve the goal of the juvenile's permanency plan and the findings under subd. 2. on a case-by-case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the order issued under s. 938.355. An order that merely references subd. 1. 1m. or 2. without documenting or referencing that specific information in the order or an amended order that retroactively corrects an earlier order that does not comply with this subdivision is not sufficient to comply with this subdivision.

SECTION 375. 938.365 (2m) (ad) 1. of the statutes is renumbered 938.365 (2m) (ad) and amended to read:

938.365 (2m) (ad) If the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 376. 938.365 (2m) (ad) 2. of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

SECTION 377. 938.365 (2m) (ag) of the statutes is amended to read:

938.365 (2m) (ag) The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under ~~par. (ad) 2. or sub. (2)~~ an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of extension. A foster parent, treatment foster parent, or other physical custodian who receives notice of a hearing under ~~par. (ad) 2. or sub. (2)~~ and an opportunity to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on

the basis of receiving that notice and having the opportunity to be heard.

SECTION 378. 938.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.365 (2m) (ag) The court shall give a foster parent or other physical custodian described in s. 48.62 (2) who is notified of a hearing under sub. (2) an opportunity to be heard at the hearing by permitting the foster parent or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of extension. A foster parent or other physical custodian who receives notice of a hearing under sub. (2) and an opportunity to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and having the opportunity to be heard.

SECTION 379. 938.38 (3) (intro.) of the statutes is amended to read:

938.38 (3) TIME. (intro.) Subject to s. 938.355 (2d) (c) 4., the agency shall file the permanency plan with the court within 60 days after the date on which the juvenile was first removed from his or her home, except under either of the following conditions:

SECTION 380. 938.38 (4) (i) of the statutes is created to read:

938.38 (4) (i) If the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), all of the following:

1. The name, address, and telephone number of the Indian juvenile's Indian custodian and tribe.
2. A description of the remedial services and rehabilitation programs offered under s. 938.028 (4) (d) 2. in an effort to prevent the breakup of the Indian juvenile's family.
3. A statement as to whether the Indian juvenile's placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and, if the placement is not in compliance with that order, a statement as to whether there is good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 381. 938.38 (4m) of the statutes is created to read:

938.38 (4m) PERMANENCY PLAN DETERMINATION HEARING. (a) If in a proceeding under s. 938.21, 938.32, 938.355, 938.357, or 938.365 the court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing within 30 days after the date of that finding to determine the permanency plan for the juvenile. If a hearing is held under this paragraph, the agency responsible for preparing the permanency plan shall file the per-

manency plan with the court not less than 5 days before the hearing.

(b) At least 10 days before the hearing the court shall notify the juvenile, any parent, guardian, and legal custodian of the juvenile, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile and, if the juvenile is an Indian juvenile who is or is alleged to be in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the time, place, and purpose of the hearing.

(c) The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b) a right to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issues to be determined at the hearing. The foster parent, treatment foster parent, or other physical custodian does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and right to be heard.

SECTION 382. 938.38 (4m) (b) and (c) of the statutes, as created by 2009 Wisconsin Act (this act), are amended to read:

938.38 (4m) (b) At least 10 days before the hearing the court shall notify the juvenile, any parent, guardian, and legal custodian of the juvenile, any foster parent, ~~treatment foster parent~~, or other physical custodian described in s. 48.62 (2) of the juvenile and, if the juvenile is an Indian juvenile who is or is alleged to be in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the time, place, and purpose of the hearing.

(c) The court shall give a foster parent, ~~treatment foster parent~~, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b) a right to be heard at the hearing by permitting the foster parent, ~~treatment foster parent~~, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issues to be determined at the hearing. The foster parent, ~~treatment foster parent~~, or other physical custodian does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and right to be heard.

SECTION 383. 938.38 (5) (b) of the statutes is amended to read:

938.38 (5) (b) The court or the agency shall notify the ~~parents of the juvenile~~, the juvenile, if he or she is 10 years of age or older, ~~and; the juvenile's parent, guardian, and legal custodian;~~ the juvenile's foster parent, the juvenile's treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom

the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the date, time, and place of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review by submitting written comments not less than 10 working days before the review or by participating at the review. The court or agency shall notify the person representing the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem of the date of the review, of the issues to be determined as part of the review, and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the juvenile's case record.

SECTION 384. 938.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.38 (5) (b) The court or the agency shall notify the juvenile, if he or she is 10 years of age or older; the juvenile's parent, guardian, and legal custodian; the juvenile's foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the date, time, and place of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review by submitting written comments not less than 10 working days before the review or by participating at the review. The court or agency shall notify the person representing the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem of the date of the review, of the issues to be determined as part of the review, and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the juvenile's case record.

SECTION 385. 938.38 (5) (c) 8. of the statutes is created to read:

938.38 (5) (c) 8. If the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), whether active efforts under s. 938.028 (4) (d) 2. were made to prevent the breakup of the Indian juvenile's family, whether those efforts have proved unsuccessful, whether the Indian child's placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), and, if the placement is not in compliance with that order, whether

there is good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 386. 938.38 (5) (d) of the statutes is amended to read:

938.38 (5) (d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a review by a review panel, provide to each person appointed to the review panel, the juvenile's parent, guardian, and legal custodian, the person representing the interests of the public, the juvenile's counsel ~~and~~, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe a copy of the permanency plan and any written comments submitted under par. (b). Notwithstanding s. 938.78 (2) (a), a person appointed to a review panel, the person representing the interests of the public, the juvenile's counsel ~~and~~, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe may have access to any other records concerning the juvenile for the purpose of participating in the review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

SECTION 387. 938.38 (5) (e) of the statutes is amended to read:

938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; ~~the juvenile or the juvenile's counsel or guardian ad litem; the person representing the interests of the public; the juvenile's parent or guardian and, or legal custodian; the juvenile's foster parent, the juvenile's treatment foster parent, or the operator of the facility where the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe.~~

SECTION 388. 938.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; the juvenile or the juvenile's counsel or guardian ad litem; the person representing the interests of the public; the juvenile's parent, guardian, or legal custodian; the juvenile's foster parent or the operator of the facility where the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe.

SECTION 389. 938.38 (5m) (b) of the statutes is amended to read:

938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; the juvenile's counsel; and the juvenile's guardian ad litem; the agency that prepared the permanency plan; ~~and the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe~~ of the date, time, and place of the hearing.

SECTION 390. 938.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; the juvenile's counsel and the juvenile's guardian ad litem; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the date, time, and place of the hearing.

SECTION 391. 938.38 (5m) (d) of the statutes is amended to read:

938.38 (5m) (d) At least 5 days before the date of the hearing the agency that prepared the permanency plan shall provide a copy of the permanency plan and any written comments submitted under par. (c) to the court, to the juvenile's parent, guardian, and legal custodian, to the person representing the interests of the public, ~~and to the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), to the Indian juvenile's Indian custodian and tribe.~~ Notwithstanding s. 938.78 (2) (a), the person representing the interests of the public ~~and, the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe~~ may have access to any other records concerning the juvenile for the purpose of participating in the review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

SECTION 392. 938.38 (5m) (e) of the statutes is amended to read:

938.38 (5m) (e) After the hearing, the court shall make written findings of fact and conclusions of law relating to the determinations under sub. (5) (c) and shall provide a copy of those findings of fact and conclusions of law to the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; the agency that prepared the permanency plan; ~~and the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe.~~ The court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the findings of fact and conclusions of law prepared under this paragraph. Findings of fact and conclusions of law that merely reference sub. (5) (c) 7. without documenting or referencing that specific information in the findings of fact and conclusions of law or amended findings of fact and conclusions of law that retroactively correct earlier findings of fact and conclusions of law that do not comply with this paragraph are not sufficient to comply with this paragraph.

SECTION 393. 938.38 (5m) (e) of the statutes, as affected by 2009 Wisconsin Acts 28 and (this act), is repealed and recreated to read:

938.38 (5m) (e) After the hearing, the court shall make written findings of fact and conclusions of law relating to the determinations under sub. (5) (c) and shall provide a copy of those findings of fact and conclusions of law to the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. The court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the findings of fact and conclusions of law prepared under this paragraph. Findings of fact and conclusions of law that merely reference sub. (5) (c) 7. without documenting or referencing that specific information in the findings of fact and conclusions of law or amended findings of fact and conclusions of law that retroactively correct earlier findings of fact and conclusions of law that do not comply with this paragraph are not sufficient to comply with this paragraph.

SECTION 394. 938.538 (6m) (a) 1. of the statutes is repealed.

SECTION 395. 938.538 (6m) (a) 4. of the statutes is amended to read:

938.538 (6m) (a) 4. “Minority group member” means a Black, a Hispanic, or an ~~American~~ Indian person.

SECTION 396. Effective dates. This act takes effect on the day after publication, except as follows:

(1) TREATMENT FOSTER HOMES. The amendment of sections 48.028 (2) (e) and (f) and (7) (b) 2. and 3., 48.335 (3j) (intro.), 48.38 (4m) (b) and (c), 938.028 (2) (c) and (6) (a) 2. and 3., 938.335 (3j) (intro.), and 938.38 (4m) (b) and (c) of the statutes and the repeal and recreation of sections 48.27 (3) (a) 1., 48.357 (1) (am) 1. and (2m) (b),

48.363 (1) (b), 48.365 (2) and (2m) (ag), 48.38 (5) (b) and (e) and (5m) (b) and (e), 48.428 (2) (a) and (b), 48.43 (5m), 48.63 (1) and (4), 48.645 (1) (a) and (2) (a) 1., 3., and 4. and (b), 938.27 (3) (a) 1., 938.357 (1) (am) 1. and 2. and (2m) (b), 938.363 (1) (b), 938.365 (2) and (2m) (ag), and 938.38 (5) (b) and (e) and (5m) (b) and (e) of the statutes take effect on the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under section 48.62 (9) of the statutes, as created by [2009 Wisconsin Act 28](#).

SECTION 397. Initial applicability.

(1) INDIAN CHILD CUSTODY PROCEEDINGS. This act first applies to an Indian child custody proceeding commenced on the effective date of this subsection.
